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SCHOOL LAWS

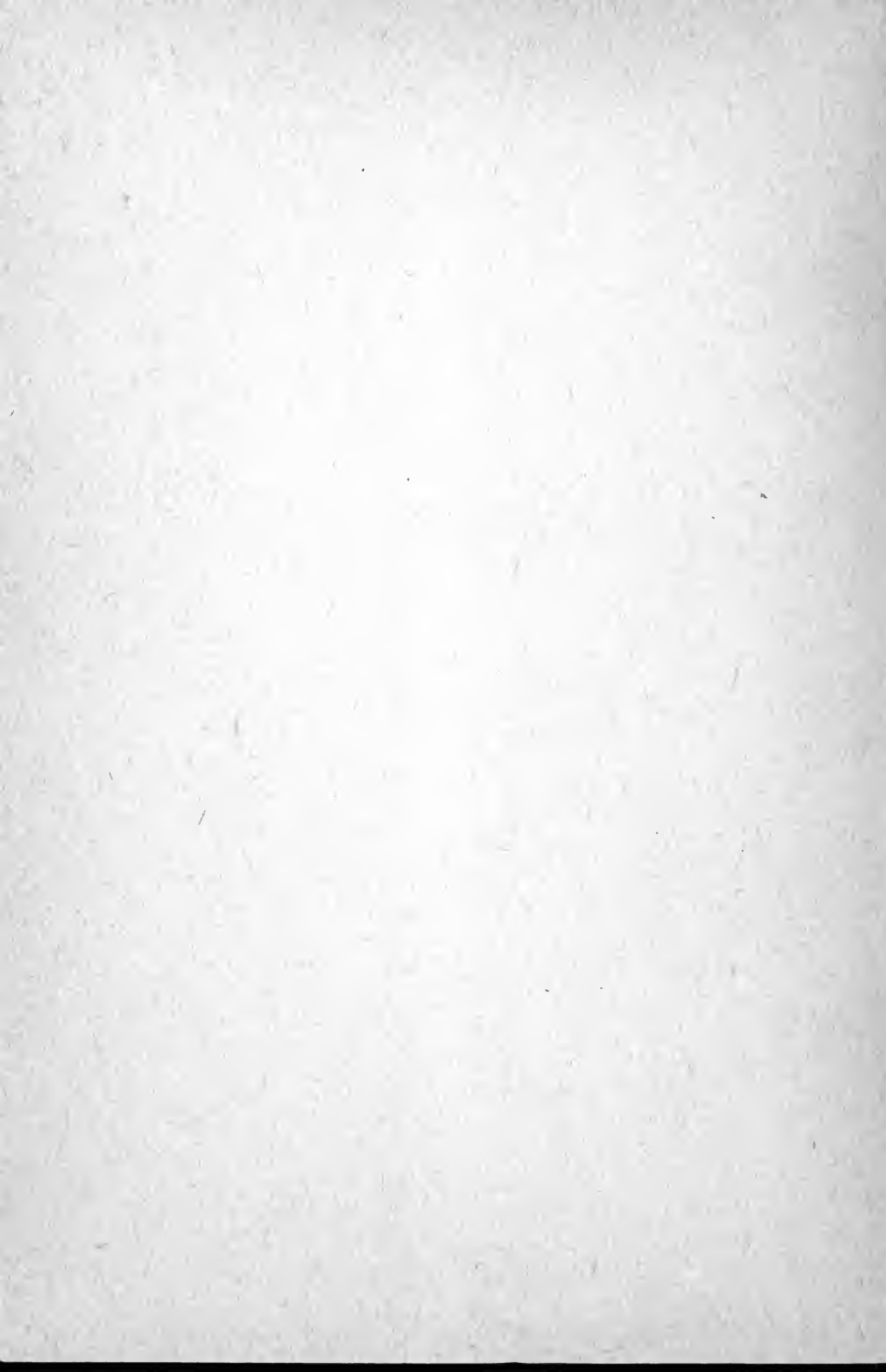
OF THE
STATE OF OHIO

WITH CITATIONS
AND BLANK FORMS

1910

JOHN W. ZELLER
STATE COMMISSIONER OF COMMON SCHOOLS

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OHIO
" **SCHOOL LAWS**

IN FORCE MAY 23, 1910.

BASED ON THE GENERAL CODE OF OHIO
AS AMENDED TO DATE.

BLANK FORMS AND DIRECTIONS TO SERVE AS
A GUIDE FOR SCHOOL OFFICERS
AND TEACHERS.

COMPILED UNDER THE DIRECTION OF
JOHN W. ZELLER
STATE COMMISSIONER OF COMMON SCHOOLS



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PREFACE.

This edition of the Ohio School Laws is issued in accordance with sections 356 and 357 of the General Code of Ohio, passed February 14, 1910.

These sections makes it the duty of the Commissioner to have printed and distributed as many copies of the law as he deems necessary for the use of the school officers in the State, as often as any change in the laws is made of sufficient importance to require a re-publication and distribution thereof.

The "New School Code" was adopted April 25, 1904, and the last issue of school laws was made July 12, 1906. That edition was exhausted when I came to the office.

There are, at least, two reasons for the necessity of this new issue.

The Codifying Commission, appointed three years ago, made its final report to the last session of the 78th General Assembly, which report was adopted February 14, 1910.

This Commission, composed of three able men, in their arduous work of codification, found it necessary to re-classify the laws, to make clear and definite obscure and indefinite expressions, to cut up long sections containing a half-dozen independent matters and place them in as many different sections, and to do other work which was necessary to make our laws more intelligible and more valuable to our people.

The Commission succeeded admirably in this work. This re-classification is the second necessity for the present issue. Then, too, quite a number of new school laws and amendments have been added to our school laws, during the last four years, with which our school officials and teachers should be familiar.

To facilitate the use of this edition you will find a table of contents at the beginning of this volume and a cross index at the close.

You will also find valuable citations from the decisions of courts in this and other states, on many of the sections which throw much light on their meaning. For illustration, under Section 4750 which gives Boards of Education authority to make rules and regulations for the proper management of their schools, you will find sufficient court citations to guide you safely in the matter of punishment and management of disobedient pupils.

I deem it my duty to issue a sufficient number of copies so that not only the presidents and clerks of the boards of education may have copies, but that all other school officials and the superintendents of the city, village, and township districts may be supplied.

I trust that school men will become more familiar with our school laws. It is one of the functions of the superintendent to keep his board informed on school laws. He can render valuable service in many ways when he is familiar with the school code.

This volume is sent forth in the hope that it will be helpful to school officials and teachers in the discharge of their duties.

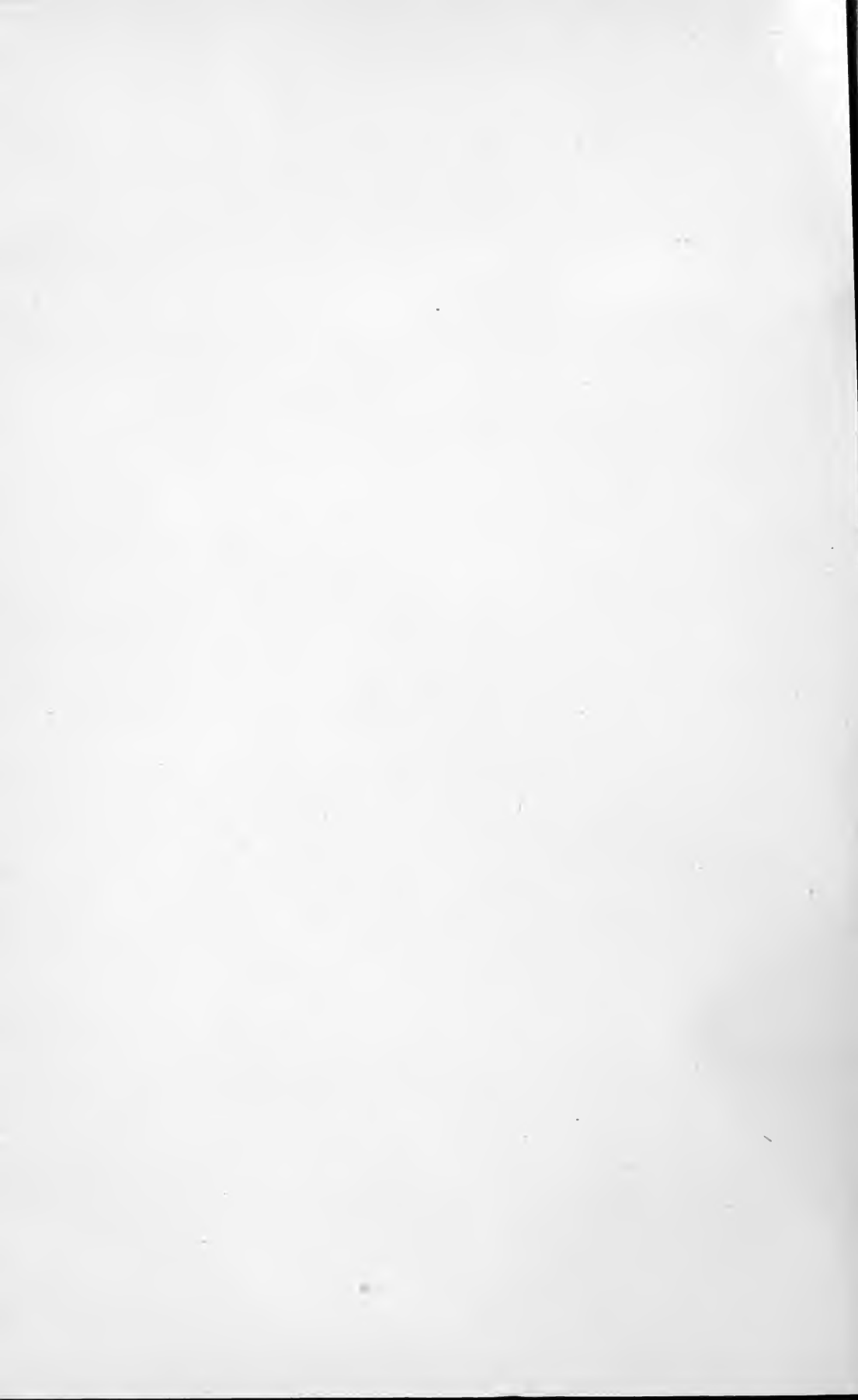
JOHN W. ZELLER,
Commissioner.

May 24, 1910.



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CONSTITUTION OF OHIO

RELATING TO PUBLIC SCHOOLS.

ARTICLE I.

SECTION 7. * * * Religion, morality and knowledge, however, being essential to good government, it shall be the duty of the general assembly to pass suitable laws to protect every religious denomination in the peaceable enjoyment of its own mode of public worship, and to encourage schools and the means of instruction.

Of the rights of conscience; necessity of religion and knowledge.

"The system of public education in Ohio is the creature of the Constitution and statutory laws of the state. It is left to the discretion of the general assembly, in the exercise of the general legislative power conferred upon it (Art. II, § 1), to determine what laws are 'suitable' to secure the organization and management of the contemplated system of common schools, without express restriction, except that 'no religious or other sect or sects shall ever have any exclusive right to, or control of, any part of the school funds of this state.'" 21 O. S., 198-205; Day, J.

The compulsory education law comes within this section. 5 C. C., 645.

ARTICLE II.

SECTION 26. All laws of a general nature, shall have a uniform operation throughout the state; nor, shall any act, except such as relates to public schools, be passed, to take effect upon the approval of any other authority than the general assembly, except, as otherwise provided in this Constitution.

Laws having uniform operation.

ARTICLE VI.

SECTION 1. The principal of all funds, arising from the sale, or other disposition of lands, or other property, granted or intrusted to this state for educational and religious purposes, shall forever be preserved inviolate and undiminished; and, the income arising therefrom, shall be faithfully applied to the specific objects of the original grant, or appropriations.

Funds for educational and religious purposes.

SECTION 2. The general assembly shall make such provisions, by taxation, or otherwise, as, with the income arising from the school trust fund, will secure a thorough and efficient system of common schools throughout the state; but no religious or other sect, or sects, shall ever have any exclusive right to, or control of, any part of the school funds of this state.

School funds.

Religious instruction, or the reading of the Bible in the public schools, is not required by the Constitution. The board of education have the sole management of the schools, and the courts cannot direct what instruction shall be given or what books read. 23 O. S., 211.

A requirement of a board of education that the Bible be read in the schools as an opening exercise cannot be interfered with by the courts, and is not in violation of any constitutional rights. 1 N. P., 140.

It is an unlawful diversion of the school funds of the state of Ohio for a board of education to authorize the teaching of religion as a regular branch of study. Attorney General.

ARTICLE XII.

Taxation by
uniform rule.

SECTION 2. Laws shall be passed, by taxing by a uniform rule, all moneys, credits, investments in bonds, stocks, joint stock companies, or otherwise; and also all real and personal property, according to its true value in money; but burying grounds, public school houses, houses used exclusively for public worship, institutions of purely public charity, public property used exclusively for any public purpose, and personal property, to an amount not exceeding in value two hundred dollars, for each individual, may, by general laws, be exempted from taxation; but all such laws shall be subject to alteration or repeal; and the value of all property, so exempted, shall, from time to time, be ascertained and published, as may be directed by law.

School property is not liable to assessment for street improvement; nor can a judgment be rendered against the board of education for the payment of the assessment out of its contingent fund. 48 O. S., 83.

Sidewalk — School property not assessable for. 48 O. S., 87.

PART FIRST

POLITICAL



TITLE I. PRELIMINARY

CHAPTER 1.

GENERAL PROVISIONS.

INTERPRETATION OF STATUTES.

SECTION 27. In the interpretation of parts first and second, unless the context shows that another sense was intended, the word "bond" includes an "undertaking", and the word "undertaking" includes a "bond"; "and" may be read "or", and "or" read "and", if the sense requires it; words of the present include a future tense, in the masculine, include the feminine and neuter genders, and in the plural include the singular and in the singular include the plural number; but this enumeration shall not be construed to require a strict construction of other words in such parts, or in this code. (R. S. Sec. 23.)

Interpretation
of certain
words.

A construction which gives effect to every section and clause must be favored. 1 O., 381, 385; 2 O., 395, 398; 17 O. S., 52, 68; 3 O., 187, 193; 5 O., 147, 151.

"A statute should be so construed that the several parts will not only accord with the general intent of the legislature, but also harmonize with each other; and a construction of a particular clause, that will destroy or render useless any other provision of the same statute, can not be correct." 3 O., 187, 193; 2 O., 395, 398; 5 O., 48, 51.

What is plainly implied in a statute is as much a part of it as what is expressed. 50 O. S., 320.

The ordinary and natural import of words consistent with the common sense of the community is to be adopted in arriving at legislative intent. 5 O., 65, 71; 25 O. S., 26, 28.

In considering questions arising under the school legislation of the state, such construction should be placed upon its various enactments, and the several provisions thereof, as will give harmony to our educational system, and secure, as far as practicable, its equal benefits, and the reasonable facilities for the enjoyment to every locality. 21 O. S., 339.

Penal statutes must be construed strictly, and cannot be extended by implication to cases not strictly within their terms. 20 O., 7; 18 O., 11; 38 O. S., 659; 44 O. S., 347.

While the opinion of the state commissioner of common schools cannot have the force of a judicial interpretation, it is of great force as the opinion of an eminent educator, who was at the head of the school system of the state, and presumably familiar with the necessities of the schools. 2 C. C., 366; Stewart, J.

FLAG, EMBLEM, COAT OF ARMS.

SECTION 28. The flag of the state of Ohio shall be pennant shaped. It shall have three red and two white horizontal stripes; the union of the flag shall be seventeen five-pointed stars, white, in a blue triangular field, the base of which shall be the staff end or vertical edge of the flag, and the apex of which shall be the center of the middle red stripe. The stars shall be grouped around a red disc superimposed upon a white circular "O". The proportional dimensions of the flag and of its various parts shall be according to the official design thereof on file in the office of the secretary of state. (95 v. 445.)

Official flag
of state.

Floral emblem
of the state.

SECTION 29. The scarlet carnation is hereby adopted as the state flower of Ohio as a token of love and reverence for the memory of William McKinley. (97 v. 631.)

Device of coat
of arms of
the state.

SECTION 30. The coat of arms of the state of Ohio shall consist of the following device: A shield, in form, a circle; on it, in the foreground, on the right, a sheaf of wheat; on the left, a bundle of seventeen arrows, both standing erect; in the background, and rising above the sheaf and arrows, a mountain range, over which shall appear a rising sun. (R. S. Sec. 15.)

TITLE III. EXECUTIVE

DIVISION I. ELECTIVE STATE OFFICERS

CHAPTER 6.

STATE COMMISSIONER OF COMMON SCHOOLS.

SECTION

- 352. State commissioner, term, office.
- 353. Bond, amount, where deposited.
- 354. Duties.
- 355. School funds, supervision; reports.
- 356. School laws, collation, distribution.
- 357. Forms for reports, instructions.
- 358. Arbor day manual.
- 359. Private schools, reports required.
- 360. Annual report to the governor, contents.
- 361. School funds, fraudulent use of, investi-

SECTION

- gation.
- 362. Examiner, appointment, powers and duties.
- 363. Duty of certain officers in such examination.
- 364. Report of examiner.
- 365. Stenographer for examiner.
- 366. Compensation and mileage of commissioner.
- 367. Duty of judge and prosecuting attorney.

SECTION 352. There shall be elected biennially a state commissioner of common schools who shall hold his office for a term of two years, commencing on the second Monday of July following his election. He shall have an office in the state house, in which the books and papers pertaining to his office shall be kept. (R. S. Sec. 354.)

State commissioner of common schools, election and term.

SECTION 353. Before entering upon the discharge of the duties of his office, the state commissioner of common schools shall give a bond to the state in the sum of five thousand dollars, with two or more sureties approved by the secretary of state, conditioned for the faithful discharge of the duties of his office. Such bond, with the approval of the secretary of state and the oath of office indorsed thereon, shall be deposited with the treasurer of state and kept in his office. (R. S. Sec. 355.)

Bond.

SECTION 354. The state commissioner of common schools shall give attendance at his office not less than ten months each year, except when absent on official duty. While holding such office he shall not perform the duties of teacher or superintendent of a public or private school, or be employed as teacher in a college or hold any other office or position of employment. Each year he shall visit each judicial district of the state, superintend and encourage teachers' institutes, confer with boards of education and other school officers, visit schools and deliver lectures on topics calculated to subserve the interests of popular education. (R. S. Secs. 356, 357.)

Duties of commissioner.

SECTION 355. The state commissioner of common schools shall have such supervision of the school funds of the state as is necessary to secure their safety and distribution as provided by law. He may require of auditors and treasurers of counties, boards of education, clerks and treasurers of such boards, and other local school officers,

Supervision of school funds and reports.

copies of all reports made by them in pursuance of law. He may also require of such officers any other information he deems proper in relation to the condition and management of schools and school funds. (R. S. Sec. 358.)

Distribution
of school
laws.

SECTION 356. The state commissioner of common schools shall collate the laws relating to schools and teachers' institutes, provide an appendix of forms and instructions for their execution, and cause as many copies thereof as may be necessary to be printed in a separate volume and distribute them among the counties of the state for the use of school officers. He may revise, republish and distribute such laws as often as changes are made in them which in his opinion are of sufficient importance to require it. (R. S. Sec. 360.)

As to the force and effect of instructions printed in a book prepared in pursuance of this section, see 2 C. C., 366.

Shall prescribe
forms.

SECTION 357. The state commissioner of common schools shall prescribe suitable forms and regulations for the reports and other proceedings required by the school laws, with such instructions for the organization and government of schools as he deems necessary, and transmit them to the local school officers, who shall be governed thereby in the performance of their duties. (R. S. Sec. 359.)

Arbor day
manual.

SECTION 358. The state commissioner of common schools shall issue each year a manual for arbor day exercises. The manual shall contain matters relating to forestry and birds, including a copy of such laws relating to the protection of song and insectivorous birds as he deems proper. He shall transmit copies of the manual to the superintendents of city, village, special and township schools and to the clerks of the boards of education, who shall cause them to be distributed among the teachers of the schools under their charge. On arbor day, and other days when convenient, the teachers shall cause such laws to be read to the scholars of their respective schools and shall encourage them to aid in the protection of such birds. (97 v. 470 § 14.)

Reports from
private
schools.

SECTION 359. Each year the state commissioner of common schools shall require a report of the president, manager or principal of each seminary, academy or private school. The report shall be made upon blanks furnished by the commissioner and contain a statement of such facts as he prescribes. The president, manager or principal shall fill up and return the blanks within a time fixed by the commissioner. (R. S. Sec. 363.)

Annual report
of commis-
sioner.

SECTION 360. The state commissioner of common schools shall make an annual report to the governor, which shall contain a statement of the amount and condition of the funds and property appropriated for purposes of education; the number of common schools in the state, the number of scholars attending such schools, their sex and

the branches taught; the number of private or select schools in the state, so far as can be obtained, the number of scholars attending such schools, their sex and the branches taught; the number of teachers' institutes, the number of teachers attending them, the number of instructors and lecturers employed therein and the amount paid to each; the estimates and accounts of expenditures of the public school funds, plans for the management and improvement of common schools, and such other information relative to the educational interests of the state as the commissioner deems important. (R. S. Secs. 361, 362.)

Provisions for printing report, see Sec. 2268.

As to the duty of county auditors in transmitting abstracts of school statistics to state commissioner of common schools, see Sec. 7780.

SECTION 361. When three or more resident taxpayers of a school district have reason to believe that any portion of the school funds of the district has been unlawfully expended or misapplied by the officers thereof, or that fraudulent entries have been made by an officer in the books, accounts, vouchers, or settlement sheets of the district, or that an officer has not made settlement of his account as required by law, they may make complaint thereof in writing, verify it by the affidavits of at least three such taxpayers, with the certificate of the auditor of the county that they are taxpayers attached, and file such complaint with the state commissioner of common schools. (R. S. Sec. 364.)

Complaint of fraudulent use of school funds.

SECTION 362. Upon the filing of the complaint, or when for other cause he deems it necessary, the state commissioner of common schools shall appoint an examiner to investigate the condition of the school funds of a district. The examiner shall be a trustworthy and competent accountant and shall have authority to summon witnesses before him forthwith upon written notice and examine them under oath administered by him. He shall be sworn by a person authorized by law to administer oaths, and shall forthwith visit the school district, take possession of the books, papers, vouchers and accounts thereof and begin such investigation. (R. S. Secs. 364, 365.)

Appointment of examiner, his qualifications, powers and duties.

SECTION 363. On application of the examiner, the officers of the school district shall immediately place in his possession the books, accounts, contracts, vouchers and others papers relating to the receipts and expenditures of the school funds. The auditor and treasurer of the county shall afford the examiner free access to the records, books, papers, vouchers and accounts of their respective offices relating to the subject of the investigation. (R. S. Sec. 365.)

Duty of certain officers in case of examination.

SECTION 364. After completing an investigation, the examiner shall make a report in writing in duplicate showing the condition of the books, vouchers and accounts of the district, the amount of school funds received for all purposes and from what sources, the amount thereof expended

Report of examiners.

and for what purposes and the amount in the treasury. The examiner shall file one copy of the report in the office of the clerk of the court of common pleas of the county in which the district is located, and transmit the other to the state commissioner of common schools. (R. S. Sec. 365.)

Stenographer
for examiner.

SECTION 365. With the written consent of the prosecuting attorney or a judge of the court of common pleas of the county in which the school district is located, the examiner may require the services of the official court stenographer of the county to aid him in making such examination; but the stenographer shall receive no compensation for such service in addition to the compensation provided for him by law. (R. S. Sec. 364.)

Compensation
and mileage
of examiner.

SECTION 366. The examiner shall receive five dollars for each day necessarily engaged in the performance of his duties and five cents for each mile of necessary travel not exceeding the distance from the seat of government to the school district. The compensation and mileage of the examiner shall be paid from the county treasury upon the warrant of the county auditor. If the complaint or other cause be sustained, the amount so paid shall be assessed by the county auditor upon the taxable property of the school district and collected as other taxes. (R. S. Sec. 365.)

Duty of judge
and prosecut-
ing attorney.

SECTION 367. A judge of the court of common pleas of the proper county shall examine the report of the examiner filed with the clerk, and, if it appear therefrom that any part of the school funds has been unlawfully used or misapplied, or that there has been fraud in the entries, accounts, vouchers, contracts or settlements, or that the settlements have not been made as required by law; or, if it appear therefrom that there has been defalcation or embezzlement by an officer of such district, he shall give the report specially in charge to the grand jury at the term of court following the filing of the report. The prosecuting attorney of the county shall forthwith prosecute such proceedings, civil or criminal, or both, as are authorized by law, against the delinquent officer or officers. (R. S. Sec. 366.)

TITLE IV. JUDICIAL

CHAPTER 8.

JUVENILE COURT.

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SECTION 1639. Courts of common pleas, probate courts, and insolvency courts and superior courts, where established, shall have and exercise, concurrently, the powers and jurisdiction conferred in this chapter. The judges of such courts, at such times as they determine, shall designate one of their number to transact the business arising under such jurisdiction. When the term of the judge so designated expires, or his office terminates, another designation shall be made in like manner. (99 v. 192 § 1.)

What courts to have powers and jurisdiction.

SECTION 1640. The seal of the court, the judge of which is designated to transact such business, shall be attached to all writs and processes. (99 v. 192 § 2.)

Seal.

SECTION 1641. The clerk of the court of the judge exercising the jurisdiction shall keep an appearance docket and a journal, in the former of which shall be entered the style of the case and a minute of each proceeding and in the latter of which shall be entered all orders, judgments and findings of the court. (99 v. 192 § 3.)

Appearance docket and journal.

SECTION 1642. Such courts of common pleas, probate courts, insolvency courts and superior courts within the provisions of this chapter shall have jurisdiction over and with respect to delinquent, neglected and dependent minors, under the age of seventeen years, not inmates of a state institution, or any institution incorporated under the laws of

Jurisdiction.

the state for the care and correction of delinquent, neglected and dependent children, and their parents, guardians, or any person, persons, corporation or agent of a corporation responsible for or guilty of causing, encouraging, aiding, abetting or contributing toward the delinquency, neglect or dependency of such minor. (99 v. 192 § 4.)

When jurisdiction terminates.

SECTION 1643. When a child under the age of seventeen years comes into the custody of the court under the provisions of this chapter, such child shall continue for all necessary purposes of discipline and protection, a ward of the court, until he or she attains the age of twenty-one years. The power of the court over such child shall continue until the child attains such age. (99 v. 192 § 4.)

"Delinquent child" defined.

SECTION 1644. For the purpose of this chapter, the words "delinquent child" includes any child under seventeen years of age who violates a law of this state or city or village ordinance, or who is incorrigible; or who knowingly associates with thieves, vicious or immoral persons; or who is growing up in idleness or crime; or who knowingly visits or enters a house of ill repute; or who knowingly patronizes or visits a policy shop or place where any gambling device is, or shall be, operated; or who patronizes or visits a saloon or dram shop where intoxicating liquors are sold; or who patronizes or visits a public pool or billiard room or bucket shop; or who wanders about the streets in the night time; or who wanders about railroad yards or tracks, or jumps or catches on to a moving train, traction or street car, or enters a car or engine without lawful authority; or who uses vile, obscene, vulgar, profane or indecent language; or who is guilty of immoral conduct; or who uses cigarettes; or who visits or frequents any theater, gallery or penny arcade where lewd, vulgar or indecent pictures are exhibited or displayed. A child committing any of the acts herein mentioned shall be deemed a juvenile delinquent person, and be proceeded against in the manner hereinafter provided. (99 v. 192 § 5.)

"Dependent child" defined.

SECTION 1645. For the purpose of this chapter, the words "dependent child" shall mean any child under seventeen years of age who is dependent upon the public for support; or who is destitute, homeless or abandoned; or who has not proper parental care or guardianship; or who begs or receives alms; or who is found living in a house of ill fame, or with any vicious or disreputable persons; or whose home, by reason of neglect, cruelty or depravity on the part of its parents, guardian or other person in whose care it may be, is an unfit place for such child; or whose environment is such as to warrant the state, in the interest of the child, in assuming its guardianship. (99 v. 193 § 6.)

"Proper parental care" defined.

SECTION 1646. A child within the provisions of this chapter whose parents or guardian permits it to use or become addicted to the use of tobacco, or intoxicating liquors as a beverage and not for medicinal purposes, or whose

parents or guardian rears, keeps or permits it in or about a saloon or place where intoxicating liquors are sold, or a gambling house or place where gambling is practiced or carried on, or a house of ill fame or ill repute, shall be deemed to be without proper parental care or guardianship. The word "child" or "children" may mean one or more children and includes males and females. The word "parent" may mean one or both parents when consistent with the intent of this chapter. The word "minor" means child. (99 v. 193 § 6.)

SECTION 1647. Any person having knowledge of a minor under the age of seventeen years who appears to be either a delinquent, neglected or dependent child, may file with the clerk of the court of the judge exercising the jurisdiction, an affidavit, setting forth the facts, which may be upon information and belief. (99 v. 193 § 7.)

Affidavit.

SECTION 1648. Upon filing of the affidavit, a citation shall issue, requiring such minor to appear, and the person having custody or control of the child or with whom it may be, to appear with the minor, at a time and place to be stated in the citation; or the judge may in the first instance issue a warrant for the arrest of such minor or for any person named in the affidavit and charged therein with having abandoned, or charged therein with neglect of or being responsible for or having encouraged, aided or abetted the delinquency or dependency of such child. A parent, guardian, or other person not cited may be subpoenaed to appear and testify at the hearing. Any one cited or subpoenaed to appear who fails to do so may be punished as in other cases in the common pleas court for contempt of court. When a person charged with violating a provision of this chapter shall have fled from justice in this state, such judge shall have all the powers of a magistrate under the laws of this state relating to fugitives from justice. (99 v. 193 § 8.)

Citation, warrant, contempt.

SECTION 1649. The county commissioners shall provide a special room not used for the trial of criminal cases, when avoidable, for the hearing of juvenile cases. (99 v. 194 § 9.)

Special room for juvenile court.

SECTION 1650. On the day named in the citation or upon the return of the warrant of arrest, or as soon thereafter as may be, the judge shall proceed, in a summary manner to hear and dispose of the case, and the person arrested or cited to appear may be punished in the manner hereinafter provided. (99 v. 194 § 10.)

Hearing.

SECTION 1651. A person charged with being responsible for or with causing, aiding or contributing to the delinquency, dependency or neglect of a child, arrested or cited to appear before such court, at any time before hearing, may demand a trial by jury, or the judge upon his own motion may call a jury. The statutes relating to the draw-

Jury trial, costs.

ing and impaneling of jurors in criminal cases in the court of common pleas, other than in capital cases, shall apply to such jury trial. When a jury trial is demanded, or when ordered by him, the judge shall issue a precept to the clerk of the common pleas court, who shall thereupon proceed to draw from the jury wheel, as in other criminal cases, and issue the venire to the sheriff of the county for the persons whose names are so drawn, who shall serve and return it as in other cases. The compensation of the jurors, and the costs of the clerk and sheriff shall be taxed and paid as in other criminal cases in the common pleas court. (99 v. 194 § 11.)

Judge may
commit child
to care of
probation of-
ficer, etc.

SECTION 1652. In case of a delinquent child the judge may continue the hearing from time to time, and may commit the child to the care or custody of a probation officer, and may allow such child to remain at its own home, subject to the visitation of the probation officer, and subject to be returned to the judge for further or other proceedings whenever such action may appear to be necessary; or the judge may cause the child to be placed in a suitable family home, subject to the friendly supervision of a probation officer, and the further order of the judge, or he may authorize the child to be boarded in some suitable family home in case provision be made by voluntary contribution or otherwise for the payment of the board of such child, until suitable provision be made for it in a home without such payment; or the judge may commit such child, if a boy, to a training school for boys, or, if a girl, to an industrial school for girls, or commit the child to any institution within the county that may care for delinquent children, or be provided by a city or county suitable for the care of such children, or to the boys' industrial school, or where it appears upon the hearing that such delinquent child is sixteen years of age, or over, and has committed a felony, to the Ohio state reformatory; or to any state institution which may be established for the care of delinquent boys, or, if a girl over the age of nine years, to the girls' industrial home or to any state institution which may be established for the care of delinquent girls. In no case shall a child, committed to such institution be confined under such commitment after attaining the age of twenty-one years. A child committed to such institution shall be subject to the control of the trustees thereof, who shall have power to parole such child on such conditions as it may prescribe, and, on the recommendation of the trustees, the superintendent shall have power to discharge such child from custody; or the judge may commit the child to the care and custody of an association that will receive it, embracing in its objects the care of neglected or dependent children, if duly accredited as hereinafter provided. (99 v. 194 § 12.)

Judge may
commit child
to care of
suitable per-
son.

SECTION 1653. When a minor under the age of seventeen years is found to be dependent or neglected, the judge may make an order committing such child to the care of

some suitable state or county institution, or to the care of some reputable citizen of good moral character, or to the care of some training school or an industrial school, as provided by law, or to the care of some association willing to receive it, which embraces within its objects the purposes of caring for or obtaining homes for dependent, neglected or delinquent children or any of them, and which has been accredited as hereinafter provided. When the health or condition of the child shall require it, the judge may cause the child to be placed in a public hospital or institution for treatment or special care, or in a private hospital or institution which will receive it for like purposes without charge. (99 v. 195 § 13.)

SECTION 1654. Whoever aids, abets, induces, causes, encourages or contributes toward the delinquency of a minor under the age of seventeen years, as herein defined, shall be fined not less than ten dollars nor more than one thousand dollars or imprisoned not less than ten days nor more than one year, or both. Each day of such contribution to such delinquency shall be deemed a separate offense. If in his judgment it is for the best interest of a delinquent minor under the age of seventeen years, the judge may impose a fine upon such delinquent not exceeding ten dollars, and he may order such person to stand committed until fine and costs are paid. (99 v. 195 § 14.)

Aiding or
abetting de-
linquency;
penalty.

SECTION 1655. Whoever is charged by law with the care, support, maintenance or education of a minor under the age of seventeen years, and is able to support or contribute toward the support or education of such minor, fails, neglects, or refuses so to do, or who abandons such minor shall be fined not less than ten dollars nor more than five hundred dollars, or imprisoned not less than ten days nor more than one year, or both. Such neglect, non-support or abandonment shall be deemed to have been committed in the county in which such minor may be at the time of such neglect, non-support or abandonment. Each day of such failure, neglect or refusal shall constitute a separate offense, and the judge may order that such person stand committed until such fines and costs are paid. (99 v. 196 § 15.)

Failure or
neglect to
support, pen-
alty.

SECTION 1656. When a person is convicted and sentenced under this chapter for the abandonment of or for the neglect of or failure to maintain or support a minor, to imprisonment in a workhouse, the county from which such prisoner is so sentenced, shall pay from the general revenue fund, forty cents, for each day such prisoner is so confined, to the chief probation officer of such county, to be by him expended, under the direction of the judge, for the maintenance of the dependent minors of such prisoner, of which expenditure such officer shall make monthly reports to the judge. The county commissioners of such county shall make the allowances herein provided

Workhouse
sentence, pro-
visions in
case of.

for, which shall be paid by the county treasurer from the county treasury upon the warrant of the county auditor in favor of such probation officer. (99 v. 196 § 16.)

Commitment
to county
jail, etc.

SECTION 1657. Pending final disposition of a case, the judge may commit any person arrested or cited to appear, except the minor under fourteen years of age, to the county jail until the case is disposed of, but such trial shall be commenced within four days of such commitment unless upon the request of the defendant. Pending final disposition, the judge may direct that the minor in question be left in the possession of the person having charge of him, or that he be kept in some suitable place provided by the county or city authorities. (99 v. 196 § 17.)

Citation after
hearing.

SECTION 1658. If it appear upon the hearing that any person not cited to appear, has probably aided, induced, caused, encouraged, or contributed to the delinquency of a minor under the age of seventeen years, or that a person, charged by law, with the care, support, education and maintenance of any minor, has abandoned, failed, refused, or neglected, being able so to do, to support or sufficiently contribute toward the support, education and maintenance of such minor, the judge may order such person to be cited to appear at a subsequent day, or may issue a warrant to arrest such person as hereinbefore provided, and upon citation, warrant and hearing the same proceedings may be had as in the first instance. (99 v. 196 § 18.)

Transfer of
case to juve-
nile judge.

SECTION 1659. When a minor, under the age of seventeen years, is arrested, such child, instead of being taken before a justice of the peace or police judge, shall be taken directly before such juvenile judge; or, if the child is taken before a justice of the peace or judge of police court, it shall be the duty of such justice of the peace or such judge of the police court, to transfer the case to the judge exercising the jurisdiction herein provided. The officers having such child in charge shall take it before such judge, who shall proceed to hear and dispose of the case in the same manner as if the child had been brought before the judge in the first instance. (99 v. 197 § 19.)

Writs, to
whom issued.

SECTION 1660. The warrants, citations, subpoenas and other writs of such judge may issue to a probation officer of any such court or to the sheriff of any county, and the provisions of law relating to the subpoenaing of witnesses in criminal cases shall apply in so far as they are applicable. (99 v. 197 § 20.)

Expense, how
paid.

SECTION 1661. When a warrant is issued to any such officer, the expense incurred in pursuing and bringing the person named therein before such judge shall be paid by the county in the manner prescribed by law for the payment of deputies, assistants and other employees of county officers. (99 v. 197 § 21.)

SECTION 1662. The judge designated to exercise jurisdiction may appoint one or more discreet persons of good moral character, one or more of whom may be women, to serve as probation officers, during the pleasure of the judge. One of such officers shall be known as chief probation officer and there may be first, second and third assistants. Such chief probation officer and the first, second and third assistants shall receive such compensation as the judge appointing them may designate at the time of the appointment, but the compensation of the chief probation officer shall not exceed twenty-five hundred dollars per annum, that of the first assistant shall not exceed twelve hundred dollars per annum, and of the second and third shall not exceed one thousand dollars per annum, each payable monthly. The judge may appoint other probation officers, with or without compensation, but the entire compensation of all probation officers in any county shall not exceed the sum of forty dollars for each full thousand inhabitants of the county at the last federal census, and in no case shall the entire compensation of all probation officers in any county exceed the sum of seven thousand five hundred dollars. The compensation of the probation officers shall be paid by the county treasurer from the county treasury upon the warrant of the county auditor, which shall be issued upon itemized vouchers sworn to by the probation officers and certified to by the judge of the juvenile court. (99 v. 197 § 22.)

Probation officers, appointment, compensation.

SECTION 1663. When a complaint is made or filed against a minor, the probation officer shall inquire into and make examination and investigation into the facts and circumstances surrounding the alleged delinquency, neglect, or dependency, the parentage and surroundings of such minor, his exact age, habits, school record, and every fact that will tend to throw light upon his life and character. He shall be present in court to represent the interests of the child when the case is heard, furnish to the judge such information and assistance as he may require, and take charge of any child before and after the trial as the judge may direct. He shall serve the warrants and other process of the court within or without the county, and in that respect is hereby clothed with the powers and authority of sheriffs. He may make arrests without warrant upon reasonable information or upon view of the violation of any of the provisions of this chapter, detain the person so arrested pending the issuance of a warrant, and perform such other duties, incident to their offices, as the judge directs. All sheriffs, deputy sheriffs, constables, marshals and police officers shall render assistance to probation officers, in the performance of their duties, when requested so to do. (99 v. 198 § 23.)

Duties and powers of probation officers.

SECTION 1664. On the request of the judge exercising such jurisdiction, the prosecuting attorney of the county shall prosecute all persons charged with violating any of the provisions of this chapter. (99 v. 198 § 24.)

Prosecuting attorney, duty of.

Bail.

SECTION 1665. The provisions of law relating to bail in criminal cases in the common pleas court shall apply to persons committed or held under the provisions of this chapter so far as they are applicable. (99 v. 198 § 25.)

Suspension
of sentence.

SECTION 1666. In every case of conviction and where imprisonment is imposed as part of the punishment, such judge may suspend sentence upon such conditions as he imposes. (99 v. 198 § 26.)

Forfeit of
bond.

SECTION 1667. When, as a condition of suspension of sentence, bond is required and given, upon the failure of a person giving such bond to comply with the terms and conditions thereof, such bond may be forfeited, the suspension terminated by the judge, the original sentence executed as though it had not been suspended, and the term of any jail or workhouse sentence imposed in such case shall commence from the date of imprisonment of such person after such forfeiture and termination of suspension. Any part of such sentence which may theretofore have been served, shall be deducted from any such period of imprisonment. (99 v. 198 § 27.)

Error pro-
ceedings.

SECTION 1668. The provisions of law relating to error proceedings from the court of common pleas, including the allowance and signing of bills of exceptions shall apply to prosecutions of persons over seventeen years of age under this chapter, and from judgment of the judge in such prosecutions error may be prosecuted to the circuit court of the county under laws governing prosecutions of proceedings in error in other criminal cases, to such circuit court. (99 v. 198 § 28.)

Findings, not
lawful evi-
dence.

SECTION 1669. The disposition of, or any order, judgment, or finding against a child under this chapter, or any evidence given in any proceeding thereunder, shall not in any civil, criminal or other cause or proceeding whatever in any court, be lawful or proper evidence against such child for any purpose whatever, except in subsequent cases herein against the same child. (99 v. 199 § 29.)

Detention
home, how es-
tablished and
conducted.

SECTION 1670. Upon the advice and recommendation of the judge exercising the jurisdiction provided herein, the county commissioners may provide by purchase or lease, a place to be known as a "detention home" within a convenient distance of the court house, not used for the confinement of adult persons charged with criminal offenses, where delinquent, dependent or neglected minors under the age of seventeen years may be detained until final disposition, which shall be maintained by the county as in other like cases. In counties having a population in excess of forty thousand, the judge may appoint a superintendent and matron who shall have charge of such home, and of the delinquent, dependent and neglected minors detained therein. Such superintendent and matron shall be suitable and discreet persons, qualified as teachers of children. Such home

shall be furnished in a comfortable manner as nearly as may be as a family home. The compensation of the superintendent and matron shall be fixed by the county commissioners. Such compensation and the expense of maintaining the home shall be paid from the county treasury upon the warrant of the county auditor, which shall be issued upon the itemized voucher, sworn to by the superintendent and certified by the judge. (99 v. 199 § 30.)

SECTION 1671. When such detention home is provided by the county commissioners, and upon such home being recommended by the judge, the commissioners shall enter an order on their journal transferring to the proper fund from any other fund or funds of the county, in their discretion, such sums as may be necessary to purchase or lease such home and properly furnish and conduct it and pay the compensation of the superintendent and matron. The commissioners shall likewise upon the appointment of probation officers, transfer to the proper fund from any other fund or funds of the county, in their discretion, such sums as may be necessary to pay them, and such transfers shall be made upon the authority of this chapter. At the next tax levying period, provisions shall be made for the expenses of the court. (99 v. 199 § 30.)

Expenses of
detention
home.

SECTION 1672. If the court awards a child to the care of an association or individual in accordance with these provisions, unless otherwise ordered, the child shall become a ward, and be subject to the guardianship of such association or individual. Such association or individual may place such child in a family home, with or without indenture, and shall be made party to any proceedings for the legal adoption of the child, and may appear in any court where such proceedings are pending, and assent to such adoption. Such assent shall be sufficient to authorize the judge to enter the proper order or decree of adoption. Such guardianship shall not include the guardianship of any estate of the child. (99 v. 199 § 31.)

Child becomes
a ward, when.

SECTION 1673. The parents, parent, guardian or other person or persons having the right to dispose of a dependent or neglected child may enter into an agreement with any association or institution, incorporated under any law of this state, which has been approved as herein provided, for the purpose of aiding, caring for or placing in homes such children, or for the surrender of such child to such association or institution, to be taken and cared for by such association or institution, or put into a family home. Such agreement may contain any and all proper stipulations to that end, and may authorize the association or institution, to appear in any proceeding for the legal adoption of such child, and consent to its adoption. The order of the judge made upon such consent shall be binding upon the child and its parents, guardian or other person, as if such person were personally in court and consented thereto, whether made party to the proceeding or not. (99 v. 200 § 32.)

May agree
with incorpo-
rated institu-
tion for care
of child.

Agent of certain institutions, duties of.

SECTION 1674. The board of trustees of the boys' industrial school, and of the girls' industrial home, and the managers of any other institution to which juvenile delinquents may be committed, may, each, maintain an agent of such institution, who shall examine the home of children paroled for the purpose of reporting to such trustees or managers whether they are suitable homes, and assist children paroled or discharged from such institution in finding suitable employment, and maintain a friendly supervision over paroled inmates. Such agents shall hold office subject to the pleasure of the board making the appointment and shall receive such compensation as the board may determine from funds appropriated for such institution applicable thereto. (99 v. 200 § 33.)

Board of state charities, duties of.

SECTION 1675. All associations receiving children hereunder shall be subject to the same visitation, inspection and supervision by the board of state charities as are the public charitable institutions of the state. Such board shall annually pass upon the fitness of every such association as receives, or desires to receive, children under the provision of this chapter. Annually at such time as the board shall direct, each such association shall make a report, showing its condition, management and competency, adequately to care for such children as are, or may be committed to it, and such other facts as the board requires. When the board is satisfied as to the care given such children, it shall issue to the association a certificate to that effect, which shall continue in force for one year unless sooner revoked by the board. No child shall be committed to an association which has not received such certificate within fifteen months next preceding the commitment. At any time, the judge may require from an association receiving or desiring so to receive children such reports, information and statements as he deems proper and necessary. He may at any time require from an association or institution, reports, information or statements concerning any child or children committed to it by him under the provisions of this chapter. (99 v. 200 § 34.)

Articles of incorporation to be approved by board of state charities.

SECTION 1676. No association whose objects may embrace the care of dependent, neglected or delinquent children shall hereafter be incorporated unless the proposed articles of incorporation shall have been submitted first to the board of state charities. The secretary of state shall not issue a certificate of incorporation unless there shall first be filed in his office the certificate of the secretary of the board of state charities that he has examined the articles of incorporation, and that in his judgment the incorporators are reputable and respectable persons, that the proposed work is needed, and the incorporation of such association is desirable and for the public good. Amendments proposed to the articles of incorporation of any such association shall be submitted in like manner to the board of state charities, and the secretary of state shall

not record such amendment or issue his certificate therefor unless there shall first be filed in his office the certificate of the secretary of the board of state charities that he has examined such amendment, that the association in question is, in his judgment, performing in good faith the works undertaken by it, and that such amendment is, in his judgment, a proper one, and for the public good. (99 v. 201 § 35.)

SECTION 1677. No association, incorporated under the laws of any other state, shall place a child in a family home within the boundaries of this state, either with or without indenture or for adoption, unless such association shall have furnished the state board of charities with such guaranty as it may require that no child having a contagious disease, deformity, feeble mind or vicious character, shall be brought into the state by such association or its agents, and that such association will promptly receive and remove from the state a child brought into the state by its agents, which shall become a public charge within the period of five years thereafter. (99 v. 201 § 36.)

Associations
of other
states.

SECTION 1678. Whoever shall place in a home or receive to be placed in a home a child in behalf of any association incorporated in any other state which has not complied with the requirements of this chapter shall be imprisoned in the county jail not more than thirty days, or fined not less than five dollars or more than one hundred dollars, or both, in the discretion of the judge. (99 v. 201 § 36.)

Penalty.

SECTION 1679. The judge in committing children shall place them, so far as practicable, in the care and custody of an individual holding the same religious belief as such child or its parents, or with some association which is controlled by persons of like religious faith as such child or its parents. (99 v. 202 § 37.)

Religious be-
lief.

SECTION 1680. Nothing herein shall be construed to repeal any provision of law relating to the boys' industrial school or the girls' industrial home. (99 v. 202 § 38.)

How chapter
construed as
to industrial
schools.

SECTION 1681. When any information or complaint shall be filed against a delinquent child under these provisions, charging him with felony, the judge may order such child to enter into a recognizance, with good and sufficient surety, in such amount as he deems reasonable, for his appearance before the court of common pleas at the next term thereof. The same proceedings shall be had thereafter upon such complaint as now authorized by law for the indictment, trial, judgment and sentence of any other person charged with a felony. (99 v. 202 § 39.)

When child is
charged with
felony.

SECTION 1682. Fees and costs in all such cases with such sums as are necessary for the incidental expenses of the court and its officers, and the costs of transportation of

Fees and costs,
how paid.

children to places to which they have been committed, shall be paid from the county treasury upon itemized vouchers, certified to by the judge of the court. (99 v. 202 § 40.)

Chapter to be
liberally con-
strued.

SECTION 1683. This chapter shall be liberally construed to the end that proper guardianship may be provided for the child, in order that it may be educated and cared for, as far as practicable in such manner as best subserves its moral and physical welfare, and that, as far as practicable in proper cases, the parent, parents, or guardian of such child may be compelled to perform their moral and legal duty in the interest of the child. (99 v. 202 § 40.)

TITLE XIII. PUBLIC SCHOOL DISTRICTS

- CHAPTER 1. CLASSIFICATION OF DISTRICTS.
CHAPTER 2. CITY SCHOOL DISTRICTS.
CHAPTER 3. VILLAGE SCHOOL DISTRICTS.
CHAPTER 4. TOWNSHIP SCHOOL DISTRICTS.
CHAPTER 5. SPECIAL SCHOOL DISTRICTS.
CHAPTER 6. BOARDS OF EDUCATION.
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CHAPTER 1.

CLASSIFICATION OF DISTRICTS.

SECTION

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4696. Apportionment of funds or indebtedness when territory is transferred.
4697. Territory situated in two or more counties.

SECTION 4679. The school districts of the state shall be styled, respectively, city school districts, village school districts, township school districts and special school districts. (R. S. Sec. 3885.)

School districts classified.

Common school districts and boards of education are not corporations within the meaning of § 1, Art. XIII, of the Constitution. 38 O. S., 51.
Special districts; see 46 O. S., 275.

SECTION 4680. Each city, together with the territory attached to it for school purposes, and excluding the territory within its corporate limits detached for school purposes, shall constitute a city school district. (R. S. Sec. 3886.)

City school districts.

SECTION 4681. Each village, together with the territory attached to it for school purposes, and excluding the territory within its corporate limits detached for school purposes, and having in the district thus formed a total tax valuation of not less than one hundred thousand dollars, shall constitute a village school district. (R. S. Sec. 3888.)

Village school district.

The board of education of a township established a central or high school and located it in a sub-district. The territory comprised in the sub-district after the establishment of the central high school, and before the act of May 1, 1873, was formed into an incorporated village; held, that the property of the central or high school and the management of the school did not, by virtue of said last mentioned act, pass to the board of education of the village. 41 O. S., 680.

Village with less than one hundred thous. and tax valuation.

SECTION 4682. A village, together with the territory attached to it for school purposes, and excluding the territory within its corporate limits detached for school purposes, with a tax valuation of less than one hundred thousand dollars, shall not constitute a village school district, but the proposition to dissolve or organize such village school district shall be submitted by the board of education to the electors of such village at any general election, and be so determined by a majority vote of such electors. (R. S. Sec. 3888.)

Township school districts.

SECTION 4683. Each civil township, together with the territory attached to it for school purposes, and excluding the territory within its established limits detached for school purposes, shall constitute a township school district. (R. S. Sec. 3890.)

Special school district.

SECTION 4684. Any school district, other than a city, village or township school district, and any school district organized under the provisions of chapter five of this title, shall constitute a special school district. (R. S. Sec. 3891.)

The formation of a special school district from territory within the limits of a township, by special act, is in conflict with Sec. 26, Art. II, of the Constitution. 73 O. S., 54; 46 O. S., 275; 88 O. S., 54.

Territory must be contiguous.

SECTION 4685. The territory included within the boundaries of a city, village or special school district shall be contiguous. (R. S. Sec. 3892.)

In regard to change in sub-districts, see Sec. 4716.

A sub-district is not a school district within the meaning of the law.

ADVANCEMENT AND REDUCTION.

Change of classification upon advancement or reduction.

SECTION 4686. When a village is advanced to a city, the village school district shall thereby become a city school district. When a city is reduced to a village, the city school district shall thereby become a village school district. The members of the board of education in village school districts that are advanced to city school districts, and in city school districts that are reduced to village school districts shall continue in office until succeeded by the members of the board of education of the new district, who shall be elected at the next succeeding annual election for school board members. (R. S. Sec. 3889.)

School district in newly created municipality.

SECTION 4687. Upon the creation of a village, it shall thereby become a village school district, as herein provided, and, if the territory of such village previous to its creation was included within the boundaries of a special school district and such special school district included more territory than is included within the village, such territory shall thereby be attached to such village school district for school purposes. (R. S. Sec. 3889.)

School district in villages upon surrender of corporate powers.

SECTION 4688. When a village surrenders its corporate powers or dissolves a village school district, as herein provided, the village school district shall be thereby

abolished and the territory formerly constituting such village district shall become a part of the township school district or districts of the civil township or townships in which it is situated, and all school property shall pass to and become vested in the township board of education of the civil township in which it is situated. (R. S. Sec. 3889.)

SECTION 4689. The provisions of law relating to the power to settle claims, dispose of property or levy and collect taxes to pay existing obligations of a village that has surrendered its corporate powers, shall also apply to such village school district and the board of education thereof. If such village school district is situated in two or more townships, any distribution of funds shall be made in proportion to the total tax valuation of the property situated in the several townships. (R. S. Sec. 3889.)

Disposal of
property in
such cases.

ANNEXATION.

SECTION 4690. When territory is annexed to a city or village, such territory thereby becomes a part of the city or village school district, and the legal title to school property in such territory for school purposes shall remain vested in the board of education of the school district from which such territory was detached, until such time as may be agreed upon by the several boards of education when such property may be transferred by warranty deed. In case of disagreement between such boards of education, like proceedings shall be had by application to the probate court as are provided by law in case of the transfer of property from one school district to another. (R. S. Sec. 3893.)

Annexation of
territory to
city or village.

SECTION 4691. When territory located within the corporate limits of a village is attached for school purposes to a district other than the village school district, and the boards of education of the districts are unable to agree as to the transfer of such territory, the board of education of the village school district may file a petition in the probate court, asking for the transfer of territory within the corporate limits of the village, and the probate court shall have the same jurisdiction and powers as are provided by the preceding section in case of disagreement between boards. (R. S. Sec. 3893.)

Attaching vil-
lage territory.

TRANSFER OF TERRITORY.

SECTION 4692. Any school district or a part thereof may be transferred to an adjoining school district by the mutual consent of the boards of education having control of such districts. To secure such consent, it shall be necessary for each of the boards to pass a resolution indicating the action taken and definitely describing the territory to be transferred. The passage of such resolution shall require a majority vote of the full membership of each board by

Transfer of
territory from
one school dis-
trict to an-
other.

a ye and nay vote, and the vote of each member shall be entered on the records of such boards. Such transfer shall not take effect until a map, showing the boundaries of the territory transferred, is placed upon the records of such boards and copies of the resolution certified to the president and clerk of each board together with a copy of such map are filed with the auditor or auditors of the county or counties in which such transferred territory is situated. (R. S. Sec. 3894.)

Transfer of
territory on
petition.

SECTION 4693. Territory may also be transferred from one school district to another as follows: A petition, signed by not less than one-half of the qualified male citizens who are electors, residing in the territory sought to be transferred and accompanied by a correct map of the territory, shall be filed with the clerks of the boards of education interested. If such boards of education fail or refuse to transfer such territory by mutual consent, as herein provided, within sixty days from the filing of the petition and map, the petitioner shall file a copy of the petition and map in the probate court of the county in which the territory is situated, or, if it be situated in two or more counties, in the probate court of the county containing the largest proportionate share of the territory to be transferred. The petitioners shall give satisfactory security for the costs in the sum of one hundred dollars, conditioned that they will pay all the costs in case the transfer is not granted. (R. S. Sec. 3895.)

Notice of
hearing.

SECTION 4694. Thereupon the probate judge shall fix a day for the hearing of the petition and cause to be published for four consecutive weeks in two newspapers of opposite politics printed and of general circulation in the county, a notice of the filing of the petition and of the time of the hearing. He shall also notify the clerks of the boards of education interested of the filing of the petition and the time of hearing. (R. S. Sec. 3895.)

Judgment
and costs.

SECTION 4695. The probate judge may hear and determine the case and give judgment for or against such transfer, and his judgment shall be final. In case the finding is against the transfer, judgment shall be rendered against the petitioners for the costs of the proceedings. If the finding is for the transfer, judgment shall be rendered against each of the boards of education interested for one-half of the costs or, if more than two boards are interested, judgment shall be rendered against each for its equal proportionate share of the costs. A certified copy of the findings of the court, together with a copy of the map of the territory transferred shall be filed by the probate judge in the office of the county auditor. (R. S. Sec. 3895.)

Apportionment
of funds or
indebtedness
when territory
is transferred.

SECTION 4696. When territory is so transferred from one school district to another, the equitable division of funds or indebtedness shall be determined upon at the

time of the transfer. When territory is transferred from one district to another by proceedings in the probate court or by the annexation of territory to a city or village, the proper division of funds in the treasury, or in process of collection, of the board of education of the school district from which the territory is detached, shall, upon application to the probate court of the county in which such territory is situated by either board of education interested, be determined and ordered by such court. If such board of education is indebted, such indebtedness, together with the proper amount of money to be paid to such board by the board of education of the school district to which the territory is transferred, annexed, or of the district created, shall be in like manner determined and ordered by the court. (R. S. Sec. 3896.)

SECTION 4697. If the territory is situated in two or more counties, the application and proceedings shall be had in the probate court of the county containing the largest proportionate share of the transferred territory. The findings of the probate court shall be final. (R. S. Sec. 3896.)

Territory situated in two or more counties.

CHAPTER 2.

CITY SCHOOL DISTRICTS.

SECTION

4698. Board in districts of less than fifty thousand population.
4699. Board in districts containing fifty thousand or over.
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SECTION

4702. Terms and members in subdistricts.
4703. Terms of members elected at large.
4704. Qualifications of members; removal.
4705. When number of members may be changed; when election held.
4706. Assignment of territory attached to city.
4707. Redistricting shall not affect existing boards.

Board in districts of less than fifty thousand population.

SECTION 4698. In city school districts which at the last federal census contained a population of less than fifty thousand persons, the board of education shall consist of not less than three members nor more than seven members, elected at large by the qualified electors of such districts. (R. S. Sec. 3897.)

Board in districts containing fifty thousand or over.

SECTION 4699. In city school districts which at the last federal census contained a population of fifty thousand persons or over, the board of education shall consist of not less than two members nor more than seven members, elected at large by the qualified electors of the school district and of not less than two members no more than thirty members elected from subdistricts by the qualified electors of their respective subdistricts. (R. S. Sec. 3897.)

Board shall fix number of members and subdistricts; boundaries.

SECTION 4700. The board of education in each city school district, by resolution, shall fix within the limits so prescribed the number of members of the board of education, to be elected at large, and the number of members of the board to be elected by city districts. At the same time, the board shall subdivide such city school district into subdivisions equal in number to the number of members of the board of education in the district, who are to be elected from subdistricts therein so established. Such subdistricts shall be bounded, as far as practicable, by corporation lines, streets, alleys, avenues, public grounds, canals, water courses, ward boundaries, voting precinct boundaries, or present school district boundaries, and shall be as nearly equal in population as possible and be composed of adjacent and as compact territory as practicable. The lines of such subdistricts so fixed shall not be changed until after each succeeding federal census. (R. S. Sec. 3897.)

Decennial redistricting; when school commissioner may act.

SECTION 4701. Within three months after the official announcement of the result of each succeeding federal census, the board of education of each such city school district shall redistrict such district into subdistricts in accordance with the provisions of this chapter. If the board of education of any such district fails to district or re-district such city school district, as herein required,

then upon application of the president of the board of education, the state commissioner of common schools shall forthwith district or re-district such city school district, subject to the requirements of this chapter. (R. S. Sec. 3897.)

SECTION 4702. Such school districts shall be numbered from one up, consecutively. At the first election for members of the board of education, the members to be elected to the board of education from subdistricts of odd-numbers, beginning with one, shall be elected for two years, and those elected from subdistricts of even numbers shall be elected for four years, and at the expiration of their respective terms, their successors shall be elected for a term of four years. (R. S. Sec. 3897.)

Terms of
members in
subdistrict.

SECTION 4703. In city school districts, at the first election, all members of the board of education at large shall be elected for terms as follows: If there are but two members of the board of education elected at large, one shall be elected for two years and one for four years. If there are more than two, and the number thereof is divisible by two, the one-half of such board shall be elected for two years and one-half for four years, but, if the whole number of members elected at large is not divisible by two, the number to be elected for two years shall be the quotient obtained by dividing the whole number to be elected less one by two, and the remaining members shall be elected for four years. At the expiration of their respective terms, their successors shall be elected for four years. (R. S. Sec. 3897.)

Terms of
members
elected at
large.

SECTION 4704. Members elected at large must be electors of the city school district, and members elected from subdistricts must be electors of the city subdistricts from which they are chosen or of the territory attached to the subdistrict for school purposes. A removal of a member of the board from such subdistrict, territory or city school district shall vacate his office. (R. S. Sec. 3897.)

Qualifications
of members
removal.

SECTION 4705. The number of members of any such board of education shall not be changed, except at the time of the redistricting herein provided for within three months after the official announcement of the result of the federal census. All members of the board of education of the city school districts shall be elected at the same time as municipal officers are elected and in the manner provided by law. (R. S. Sec. 3897.)

When number
of members
changed;
when election
held.

SECTION 4706. When territory is attached to a city district for school purposes, the board of education shall assign such territory to the subdistrict or subdistricts adjoining it, and a map, showing such assignment, shall be made a part of the record of the board. The electors residing in such attached territory shall be entitled to vote for school officers and on all school questions in the subdistrict to which they are assigned and in the election pre-

Assignment of
attached
territory
to city.

cinct nearest their residence. If the board of education fails to perform this duty, the electors residing in such attached territory may vote in the subdistrict and precinct nearest their residence. An elector residing in the city and not in the city school district shall not be entitled to vote in the city school district. (R. S. Sec. 3898.)

Redistricting
shall not affect
existing
boards.

SECTION 4707. The redistricting of a city school district shall not affect the membership of the then existing board of education in such district. All members thereof shall continue to serve for the full term for which they were elected. After the expiration of such terms, the election of members of the board of education from subdistricts shall be by the subdistricts as redistricted. (R. S. Sec. 3900.)

CHAPTER 3.

VILLAGE DISTRICTS.

SECTION

4708. Board of education in village districts.
4709. Terms of members chosen at first election.

SECTION

4710. Election in newly created village.
4711. Assignment of electors in attached territory for voting purposes.

SECTION 4708. In village school districts, the board of education shall consist of five members elected at large at the same time as municipal officers are elected and in the manner provided by law. (R. S. Sec. 3908.)

Board of
education in
village dis-
tricts.

SECTION 4709. At the first election in such district, a board of education shall be elected, two members to serve for two years and three to serve for four years. At the proper municipal election held thereafter, their successors shall be elected for a term of four years. (R. S. Sec. 3908.)

Terms of
members
chosen at first
election.

SECTION 4710. In villages hereafter created, a board of education shall be elected as provided in the preceding section. If such election is a special election, the members elected shall serve for the term indicated in such section from the first Monday in January after the last preceding election for members of the board of education, and the board shall organize on the second Monday after the special election. (R. S. Sec. 3909.)

Election in
newly created
village.

SECTION 4711. Electors, residing in territory attached to a village district for school purposes, may vote for school officers and on all school questions at the proper voting place in the village to which the territory is attached. If the village is divided into precincts, the board of education of the village school district shall assign such attached territory to the adjoining precinct or precincts of the village, and have a map prepared showing such assignment, which map shall be made a part of the records of the board. Electors residing in such attached territory may vote in the precinct to which they are assigned, but, if no assignment of territory is made, they shall vote in the precinct nearest their residence. An elector residing in the village but not in the village school district shall not vote in such village school district. (R. S. Sec. 3910.)

Assignment of
electors in
attached ter-
ritory for
voting pur-
poses.

CHAPTER 4.

TOWNSHIP DISTRICTS.

SECTION

- 4712. Board of education in township districts.
- 4713. First election in township districts.
- 4714. Assignment of electors in attached territory for school purposes.
- 4715. Compensation of members of board.

SUBDISTRICTS.

- 4716. Division of township into subdistricts.
- 4717. Election of school director in subdistrict.
- 4718. Notice of election of director.
- 4719. Judges of election, poll book and tally sheet.
- 4720. Failure to elect; procedure.
- 4721. Meetings of qualified electors.

Board of education in township districts.

First election in township districts.

SECTION

- 4722. Duties of the director of subdistrict.

JOINT SUBDISTRICTS.

- 4723. Joint subdistricts abolished.
- 4724. Map of attached territory.
- 4725. When subdistrict is part of township having centralized schools.

CENTRALIZATION.

- 4726. Submission of question of centralization.
- 4727. Submission of question of decentralization.

SECTION 4712. In township school districts, the board of education shall consist of five members elected at large at the same time township officers are elected and in the manner provided by law. (R. S. Sec. 3915.)

SECTION 4713. At the first election in a township district, a board of education shall be elected, as herein provided, two members to serve for two years and three to serve for four years. At the township election held every second year thereafter, their successors shall be elected for a term of four years. (R. S. Sec. 3915.)

Quo warranto is the proper remedy to try a title to an office. 570 O. S., 371.

As to serving until successor is elected. 7 C. C., 1, 4; aff'd 29 B., 396. When judges and clerks of election fail to sign pollbooks and tallysheets, to fill up blanks in the caption, or to carry out the aggregate votes, such omissions and mistakes may be corrected upon the trial of a contest, by parol evidence, and when so corrected, the documents, sustained by the parol proof, are competent evidence of the result of the election. 16 O. S., 184.

The evident intent of the law requires that when the polls are once opened, they should be kept open until the hour prescribed for finally closing; but the statute on the conduct of elections, section 5/56, is said to be directory, and if so, "a departure from its strict observance will not necessarily invalidate an election, where no fraud has been practiced and no substantial right violated." 19 O. S., 25.

The officers of an election board cannot, after dissolving the board and dispersing, return and perform any official act regarding such election. When they have dispersed, they cease to be officers of the election — are *functi officio*. 21 O. S., 216; 14 O. S., 315.

Pollbooks duly certified and returned are *prima facie* evidence of the truth of their contents, but this presumption will be rebutted by proof that they are fraudulent and fictitious to such an extent as to render them wholly unreliable. 26 O. S., 549.

Quo warranto will lie where no provision for a contest is made by law — as was the case in the election of school directors against the respondent, whom the board recognized, and the fact that the relator has received a certificate is not conclusive. 8 Rec. 432; 4 B., 1065.

A person voted for under the name of E. H. Smith, whose name is H. E. Smith, there being no such man as E. H. Smith, should have the votes counted, if the judges are satisfied that the person H. E. Smith was intended. 11. W. L. M., 589.

In case a candidate receiving the highest number of votes at an election is ineligible, the next highest candidate is not elected. 13 Cal., 145; 38 Maine, 597; 1 Chandler, Wis., 117.

McCrary on Elections, section 184: "The safe rule probably is that where an election board are found to have wilfully and deliberately committed a fraud, even though it affect a number of votes too small to change the result, it is sufficient to destroy all confidence in their official acts, and to put the party claiming anything under the election conducted by them, to the proof of his votes, by evidence, other than the returns." See *Judkins v. Hill*, 50 N. H., 140; *Knox Co. v. Davis*, 63 Ill., 405; *Russell v. State*, 11 Kan., 308.

Receiving illegal or improper votes will not alone vitiate an election. It must be shown affirmatively, in order to overturn the declared result that the wrongful action changed it. *Dillon on Municipal Corporations*, 261.

SECTION 4714. Electors residing in territory attached to a township school district for school purposes may vote for school officers and on all school questions at the proper voting place in the township in which such territory is attached. If the township is divided into different voting precincts, the board of education of such district shall assign the attached territory to the adjoining precinct or precincts. If such territory is attached to more than one precinct, a map shall be prepared, showing such assignment, which map shall be made a part of the records of the board. Electors may vote according to such assignment, but, if no assignment of territory is made, they shall vote, in the precinct nearest their residence. An elector residing in the township, but not in the township school district, shall not vote in such township school district. (R. S. Sec. 3916.)

Assignment of electors in attached territory for school purposes.

SECTION 4715. Each member of the township board of education shall receive as compensation two dollars for each meeting actually attended by such member, but for not more than ten meetings in any year. The compensation allowed members of the board shall be paid from the contingent fund. (R. S. Sec. 3920.)

Compensation of members of board.

SUBDISTRICTS.

SECTION 4716. The division of township school districts into subdistricts as they exist shall continue and be recognized for the purpose of school attendance, but the board of education may increase or diminish the number or change the boundaries of the subdistricts at any regular meeting. A map designating such changes shall be entered upon the records of the board. (R. S. Sec. 3921.)

Division of township into subdistricts.

The term "sub-district," as used in section 1 of this supplementary act of April 9, 1867 (64 v. 117), does not include the subordinate territorial divisions of separate school districts into which a city or village may be subdivided, but applies exclusively to township or county subdistricts. 19 O. S., 577.

SECTION 4717. In all township districts, the schools of which are not centralized or consolidated, there shall be elected on the second Monday of April each year by ballot, in each subdistrict by the qualified electors thereof one competent person having the qualifications of an elector therein, who shall be styled director. (R. S. Sec. 3921a.)

Election of school director in subdistrict.

SECTION 4718. The director of each subdistrict shall post written or printed notices in three or more conspicuous places in his subdistrict, at least six days prior to such election, designating the day and hour of opening and the hour of closing the election. The election shall be held at the school house in the subdistrict. (R. S. Sec. 3921a.)

Notice of election of director.

SECTION 4719. The meeting shall be organized by the appointment of a chairman and secretary, who shall act as judges of the election under oath, which oath may be administered by the director of the subdistrict, or any

Judges of election, poll book and tally sheet.

other person competent to administer it. The secretary shall keep a poll book and tally sheet, which shall be signed by the judges and delivered within eight days to the clerk of the township board of education. In case of a tie vote, the judges of the election shall decide it by lot. (R. S. Sec. 3921a.)

Failure to
elect; proced-
ure.

SECTION 4720. If there is a failure to elect a director in any subdistrict or a director elected therein refuses to serve, or otherwise, the township board of education shall appoint a director for such subdistrict. (R. S. Sec. 3921a.)

Meetings of
qualified elec-
tors.

SECTION 4721. The qualified electors of the subdistrict may hold their meetings at any time upon the call of the director or of any five electors. Five days' notice shall be given of such meetings by posting notices in five public places in the vicinity. (R. S. Sec. 3921a.)

Duties of the
director of
subdistrict.

SECTION 4722. The director of each subdistrict shall preside at the school meetings of the district, record the proceedings thereof, and act as the organ of communication between the inhabitants and the township board of education. He shall take charge of the school house and property belonging thereto under the general order and direction of the township board of education, and preserve them. When so ordered by the board, he shall make all temporary repairs of the school house, furniture and fixtures and provide the necessary fuel for the school, reporting the cost thereof to the board of education for payment. He shall take the enumeration of his subdistrict and return it to the clerk of the board of education in the manner prescribed by law. (R. S. Sec. 3921a.)

JOINT SUBDISTRICTS.

Joint sub-
districts
abolished.

SECTION 4723. Joint subdistricts are abolished and the territory of such districts situated in the township in which the school house of the joint district is not located shall be attached for school purposes to the township school district in which such school house is located. Such territory shall constitute a part of such township school district, and the title of all school property located therein is vested in the board of education of the township to which the territory is attached. (R. S. Sec. 3923.)

Map of at-
tached terri-
tory.

SECTION 4724. A map of such attached territory shall be prepared under the direction of the board of education of the township district to which the territory is attached and made a part of the records of the board. A copy of such map shall be filed with the auditor of the county in which such territory is situated, or, if the territory is in two or more counties, it shall be filed with the auditor of each county. (R. S. Sec. 3923.)

SECTION 4725. When such joint subdistrict is a part of townships, both of which have centralized schools and no school is maintained in such subdistrict, the boundaries of the civil township so situated shall form the boundaries of the township school districts, and each township shall have control of the territory of such joint subdistrict lying within its boundaries. (R. S. Sec. 3923.)

When joint subdistrict is part of townships having centralized schools.

CENTRALIZATION.

SECTION 4726. A township board of education may submit the question of centralization, and, upon the petition of not less than one-fourth of the qualified electors of such township district, must submit such question to the vote of the qualified electors of such township district at a general or special election called for that purpose. If more votes are cast in favor of centralization than against it, at such election, such board of education shall proceed at once to the centralization of schools of the township, and, if necessary, purchase a site or sites and erect a suitable building or buildings thereon. If, at such election, more votes are cast against the proposition of centralization than for it, the question shall not again be submitted to the electors of such township district for a period of two years. (R. S. Sec. 3927-2, as amended May, 1910.)

Submission of question of centralization.

SECTION 4727. When the schools of a township have been centralized such centralization shall not be discontinued within three years, and then only by petition and election, as herein required. If at such election more votes are cast against centralization than for it, the division into subdistricts as they existed prior to centralization shall thereby be re-established, at the next regular election and subdistrict directors shall be elected, as herein provided. (R. S. Sec. 3927-2.)

Submission of question of decentralization.

CHAPTER 5.

SPECIAL SCHOOL DISTRICTS.

SECTION

- 4728. Special school district.
- 4729. How established.
- 4730. Bond; costs; remonstrance.
- 4731. Duty of probate judge on filing of petition.
- 4732. Procedure upon hearing.
- 4733. Fees; jurisdiction exclusive.
- 4734. Existing districts shall continue; exception.
- 4735. Officers of existing districts shall hold until successors are elected.
- 4736. Board of education in special districts.
- 4737. When a new district is created.
- 4738. Elections in special school districts.

Special school district.

SECTION 4728. A special school district may be formed of any contiguous territory, not included within the limits of a city or village, which has a total tax valuation of not less than one hundred thousand dollars. (R. S. Sec. 3928.)

How established.

SECTION 4729. To establish a special school district, a petition, signed by not less than ten male citizens who are electors of the proposed special district, shall be filed in the office of the probate judge of the county in which such special district is situated, or, if such district is situated in two or more counties, then with the probate judge of the county having the greatest total tax valuation of such proposed district. Such petition shall set forth the desires of the petitioners, shall contain a description of the territory to be included in the proposed special district and be accompanied by a statement giving the total tax valuation of such territory certified to by the county auditor or auditors, and an accurate map of the territory, to be included in such district, which map shall be prepared to the satisfaction of the probate judge. (R. S. Sec. 3928.)

Bond; costs; remonstrance.

SECTION 4730. Such petition shall be accompanied by a bond of one or more of the petitioners, in the sum of one hundred dollars, with sureties to the satisfaction of the probate judge, conditioned that the parties entering into the bond shall pay all the costs of the proceedings, if a special school district is not created, and, in such case, the probate judge shall render judgment against the parties to the bond for all the costs of the proceedings. If the petition is granted, the costs shall be taxed against the special school district thereby authorized, and be paid by the board of education thereof thereafter elected, from any funds that may come into its possession. A remonstrance signed by one or more of the male citizens who are electors of the proposed district may be filed with the probate judge and must be considered upon the hearing of the petition. (R. S. Sec. 3928.)

SECTION

- 4739. Mass meeting to fix time for holding first election.
- 4740. Term of members of first board elected.

ABANDONMENT OF SPECIAL DISTRICTS.

- 4741. Election on question of abandonment of special district.
- 4742. Where election shall be held and by whom conducted.
- 4743. Form of ballot; result of election.
- 4744. How funds shall be apportioned in case of abandonment.

SECTION 4731. Upon the filing of a petition for the establishment of a special school district, the probate judge shall fix the time for the hearing of the petition, which shall be within sixty days of the filing thereof. Thereupon he shall cause to be published for four consecutive weeks in two newspapers of opposite politics, printed and of general circulation in the county where the petition is filed, notice of the filing of the petition and the time of the hearing thereon. Such notices shall be mailed to the clerk or clerks of the boards of education having territory in the proposed special school district. (R. S. Sec. 3929.)

Duty of probate judge on filing of petition.

SECTION 4732. The probate judge may hear and determine the question of the establishment of such special school district, and may subpoena and examine witnesses under oath. He may change the boundaries of the proposed special school district, shall fix and determine the amount of money due and payable to the special district from the surplus money in the treasury or in process of collection in the district or districts from which it was formed, or, in case of the indebtedness of such district or districts, he shall determine the amount of money due and payable by the special district to the district or districts from which it was formed. In either case, the amount so found due, shall be a valid and binding obligation upon the board of education of such district or districts. (R. S. Sec. 3929.)

Procedure upon hearing.

SECTION 4733. The fees in cases involving the establishment of special school districts shall be the same as in civil cases, and the jurisdiction of the probate court in such cases shall be exclusive. (R. S. Sec. 3929.)

Fees; jurisdiction exclusive.

SECTION 4734. Nothing herein shall abolish any existing special school district, but all such districts, whether created under a general or special act, including the territory now constituting them, shall, unless changed under the provisions of this chapter, continue to be and remain special school districts, except special districts which include within their boundaries a city or village. In such case the special district shall be a city or village school district with or without territory attached or detached, as the case may be. (R. S. Sec. 3928.)

Existing districts shall continue; exception.

Special school districts which have been created by special act of the legislature are not legally constituted school districts, and must be re-established by petition to the probate court, as provided in sections 3923-3932, R. S. "It is not within the power conferred on the general assembly by the constitution to declare that things done and created under and by virtue of unconstitutional acts of the general assembly, nevertheless 'shall continue to be and remain and be recognized as legal.'"—73 O. S., 54.

SECTION 4735. All officers and members of boards of education of existing special school districts, whether created by a special or general act, shall continue to hold and exercise their respective offices and powers until their successors are elected and qualified, as herein provided. (R. S. Sec. 3928.)

Officers of existing districts shall hold until successors are elected.

Board of education in special districts.

SECTION 4736. The board of education of special school districts shall consist of five members, elected at large at the same time as township officers are elected and in the manner provided by law. (R. S. Sec 3930.)

When a new district is created.

SECTION 4737. At the first township election after the creation of a special district therein, a board of education shall be elected in such district, as herein provided, two members to serve for two years and three to serve for four years, and at the proper township election thereafter, their successors shall be elected for the term of four years. (R. S. Sec. 3930.)

Elections in special school districts.

SECTION 4738. Elections of members of the board of education in special districts shall be held by the proper election officers of the township in which such districts are situated, and, if a special district is situated in two or more townships, the election shall be held by the election officers of the different townships for the electors residing in each township, respectfully, in the manner provided by law. (R. S. Sec. 3931.)

Mass meeting to fix time for holding first election.

SECTION 4739. When a special school district is created, a mass meeting of the electors of such district shall be called by the posting of notices in five public places in the district, setting forth the time and place of such meeting, and signed by at least three electors of the district. The electors assembled at such meeting shall elect a chairman and secretary and fix the time of holding the first election for members of the board of education. The time so fixed shall not be within twenty-five days of the time of holding such mass meeting. The chairman and secretary of the meeting shall immediately post notices in five public places within the district, giving the date of election, and shall notify the deputy state supervisors of elections of the county or counties of the names of the voting precincts having territory in such special school district and the probable number of electors in each precinct, in order that such deputy state supervisors may prepare ballots, poll books and tally sheets at the time and in the manner provided by law. (R. S. Sec. 3932.)

Term of members of first board elected.

SECTION 4740. The board of education thus elected shall organize on the second Monday after the election, and the terms of members shall be, as hereinbefore provided, from the first Monday in January after the last preceding annual election of members of boards of education and until their successors are elected and qualified. (R. S. Sec. 3932.)

ABANDONMENT OF SPECIAL DISTRICTS.

Election on question of abandonment of special district.

SECTION 4741. When a petition is signed by not less than one-third of the electors residing within the territory constituting a special school district, praying for the abandonment or continuance of such special district, is presented to the board of education of such district, or when such board, by a majority vote of the full membership

thereof, shall decide to submit the question of abandoning or continuing the special school district, the board shall fix the time of holding such election at a special or general election. The clerk of the board shall notify the deputy state supervisors of elections as herein provided in case of first election, of the date of such election and the purposes thereof, and such deputy state supervisors shall provide therefor. The clerk of the board of education shall post notices thereof in five public places within the district. (R. S. Sec. 3935.)

SECTION 4742. If the question is submitted at a special election in a district in two or more election precincts, it shall be held at the precinct nearest the school house in such special district, by the election officers of the precinct, and all the electors of the district may vote at such precinct. If the district is situated in two or more counties, the deputy state supervisors of the county in which such nearest election precinct is situated shall have charge of the election. If the question is submitted at a regular election, it shall be conducted in the same manner as the election of members of the board of education. (R. S. Sec. 3935.)

Where election shall be held and by whom conducted.

SECTION 4743. The ballot shall be in the regular form but without the circle at the top, and shall have printed thereon, "Abandonment of special school district, yes"; "Abandonment of special school district, no" or "Continuance of special school district, yes"; or "Continuance of special school district, no", as the case may be. The expense of the election shall be paid in the same manner as other school election expenses, and the returns thereof shall be made to the board of education of the special school district. If more votes are cast for abandonment than against it, or against continuance than for it, such board shall certify the result to the board or boards of education of the township or townships having territory in the special district, and the territory of the special district shall thereby revert to the township school district or districts from which it was originally taken, except as hereinafter provided in case of indebtedness of the special district. Otherwise such district shall continue to be and remain a legal special school district as theretofore constituted. (R. S. Sec. 3935.)

Form of ballot; result of election.

SECTION 4744. The legal title of the property of a special school district in case of abandonment or failure to continue shall become vested in the board or boards of education of the township or townships in which such property is situated. The school funds of such special district shall be paid into the treasury of the township district, and if such special district is in two or more townships, such funds shall be divided between them in proportion to the total tax valuation of property in the several districts. The abandonment of a special school district shall not be complete until the board of education of the district has provided for the payment of any indebtedness that may exist. (R. S. Sec. 3935.)

How funds shall be apportioned in case of abandonment.

CHAPTER 5.

BOARDS OF EDUCATION.

SECTION

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SECTION

4755. Boards may accept bequests.
 4756. How real property may be sold.
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 4758. Exchange of real estate.
 4759. School property exempt from taxation.
 4760. Processes against boards, how served.
 4761. Prosecuting attorney or city solicitor to be counsel of school board.
 4762. When other officers may act; restrictions.

When terms of members shall begin.

SECTION 4745. The terms of office of members of each board of education shall begin on the first Monday in January after their election, and each such officer shall hold his office four years and until his successor is elected and qualified. (97 v. 40 § 2.)

If a school district should fail to elect members of the board of education at a regular election, the members whose successors should have been chosen, continue to hold office until their successors are elected and qualified. Attorney General.

Oath of members of board and other officers.

SECTION 4746. Before entering upon the duties of his office, each person elected or appointed a member of a board of education or elected or appointed to any other office under this title shall take an oath to support the constitution of the United States and the constitution of this state and that he will perform faithfully the duties of his office. Such oath may be administered by the clerk or any member of the board. (R. S. Sec. 3979.)

Ballots for school board.

SECTION 5032. The names of candidates for members of the board of education of a school district, however nominated, shall be placed on one independent and separate ballot without any designation whatever, except for member of board of education and the number of members to be elected. (98 v. 116 § 1.)

How ballot for school board printed.

SECTION 5033. The ballots for members of the board of education shall be prepared and printed as follows: The whole number of ballots to be printed for the school district shall be divided by the number of candidates for member of board of education of the district, and the quotient so obtained shall be the number of ballots in each series of ballots to be printed. The names of candidates shall be arranged in alphabetical order and the first series of ballots printed. Then the first name shall be placed last and the next series printed, and so shall the process be repeated until each name shall have been first. These ballots shall then be combined in tablets with no two of the same order of names together, except when there is but one candidate. (98 v. 116 § 2.)

School districts in cities.

SECTION 5034. In city school districts, the ballots for each subdistrict shall contain the names of the candidates for member of the board of education from such subdistrict and also the names of the candidates to be elected at large. (97 v. 354 § 1.)

When the legislature has fixed by law the time for holding an election of officers, an election at any other time, unless provided for by law, is unauthorized and void. 20 O. S., 167.

When candidates for different terms are running for the office of mem-

ber of the board of education, the term each is to, serve should be designated on the ballots and such designation cannot be disregarded by the judges of election. 20 O. S., 336.

A person so elected may appear before any person authorized by law to administer an oath, and may take his oath of office. This should be done in case the member-elect is, for any reason, unable to attend the meeting for organization. The certificate of the officer administering the oath should be sent to the board and copied in the records, to obviate all questions. For the same reason, a record should be made of the oath administered to each member.

Officers who have sworn to perform official duties may be compelled to perform them by writ of mandamus. This writ issues from the supreme, circuit or common pleas court. Section 12234 of the General Code.

They also may be restrained from doing illegal acts under color of authority as officers by writ of injunction. This writ issues from the supreme, circuit or common pleas court, or a judge thereof; or from the probate court, in case none of the above named judges are in the county. Section 11877, General Code.

But to boards of education is left large discretion as to the manner of performing their official duties, and courts will not interfere with this discretion. 23 O. S., 211.

Officers required by law to exercise their judgments, are not answerable for mistakes of law or mere errors of judgment, where there is neither fraud nor malice. *Jenkins v. Waldron*, 11 Johnson's Rep., 114.

An officer acting within the scope of his authority is only responsible for an injury resulting from a corrupt motive. 17 Ohio, 402.

A public officer who is required by law to act in certain cases, according to his judgment or opinion, and subject to penalties for his neglect, is not liable to a party for an omission arising from a mistake or want of skill, if acting in *good faith*. *Seamen v. Patten*, 2d Cain's Rep., 312.

But an officer entrusted by the common law or by statute is liable to an action for *negligence* in the performance of his trust or for *fraud* or *neglect* in the execution of his office. *Jenner v. Joliffe* 9 John, Rep., 281.

The performance of any act prohibited by statute, or any wilful neglect of duty, and for which no penalty is provided by enactment, is a misdemeanor. For the number of votes necessary in the election of officers of the board, see section 4752.

President and clerk of township boards to attend December meeting of township trustees; Sec. 3273.

Inspection of school funds in case of non-attendance of president and clerk as required by Sec. 3273; see Sec. 3315.

SECTION 4747. The board of education of each school district shall organize on the first Monday of January after the election of members of such board. One member of the board shall be elected president, one as vice president and in township school districts the clerk of the township shall be clerk of the board. The president and vice president shall serve for a term of one year and the clerk for a term not to exceed two years. In all other districts a person who may or may not be a member of the board shall be elected clerk. The board shall fix the time of holding its regular meetings. (As amended April 28, 1910.)

Organization
of the board.

President of board of education is an officer within the meaning of section 8, G. C., and holds over until successor qualifies. *State v. Withrow*, 31 O. C., 215 (11 N. S., 569.)

SECTION 4748. A vacancy in any board of education may be caused by death, non-residence, resignation, removal from office, failure of a person elected or appointed to qualify within ten days after the organization of the board or of his appointment, removal from the district or absence from meetings of the board for a period of ninety days, if such absence is caused by reasons declared insufficient by a two-thirds vote of the remaining members of the board, which vote must be taken and entered upon the records of the board not less than thirty days after such absence. Any such vacancy shall be filled by the board at its next regular or special meeting, or as soon thereafter as possible, by election for the unexpired term. A majority vote of all the remaining members of the board may fill any such vacancy. (R. S. Sec. 3981.)

Vacancies in
board, how
filled.

Corporate powers of board of education.

SECTION 4749. The board of education of each school district, organized under the provisions of this title, shall be a body politic and corporate, and, as such, capable of suing and being sued, contracting and being contracted with, acquiring, holding, possessing and disposing of real and personal property, and taking and holding in trust for the use and benefit of such district any grant or devise of land and any donation or bequest of money or other personal property and of exercising such other powers and privileges as are conferred by this title and the laws relating to the public schools of this state. (R. S. Sec. 3971.)

For "an act to authorize certain boards of education to sell real estate at private sale to municipal corporations," see 81 v. 93.

For "an act to authorize the use of school houses for literary entertainments, school exhibitions, singing schools, and religious exercises," see Sec. 7622.

A board of education is not liable, in its corporate capacity, for damages for an injury resulting to a pupil while attending a common school, from its negligence in the discharge of its official duty in the erection and maintenance of a common school building under its charge, in the absence of a statute creating a liability. 30 O. S., 37.

A dedication for school purposes is for a specific use, and confers no power of alienation so as to extinguish the use. 18 O. S., 221.

Boards of education are invested with the title to the property of their respective districts in trust for the use of public schools; and a lease of a public school house for the purpose of having a private or select school taught therein, for a term of weeks, is in violation of the trust; and such use may be restrained at the suit of a resident taxpayer of the district. 25 O. S., 113.

Where land was conveyed to a township board of education, its successors and assigns, for the use of school purposes only, and the board afterward sold the land at public outcry to C.: Held, that the sale was not in violation of the terms of the grant. 37 O. S., 262.

The board of education being a legal entity empowered to sue, has capacity to sue its defaulting treasurer without resorting to his bond. 51 O. S., 115.

An officer acting within the scope of his authority is only responsible for an injury resulting from a corrupt motive. 17 O., 402.

A board of education is not subject to quo warranto, since it cannot be ousted; it is not such a corporation as R. S., Sec. 6761 contemplates, but a state agency. 7 C. C., 152.

Corporations must take and grant by their corporate names. 2 Kent., 11 Ed., 351.

Board may make rules; local meetings.

SECTION 4750. The board of education shall make such rules and regulations as it deems necessary for its government and the government of its employes and the pupils of the schools. No meeting of a board of education, not provided for by its rules or by law, shall be legal unless all the members thereof have been notified, as provided in the next section. (R. S. Sec. 3985.)

Board can not authorize clerk to become custodian of tuition funds under this section. 74 O. S., 80. See State ex rel. v. Wickham under section 7684.

As the act authorizing the board to make rules does not provide how they shall be enforced, the board has discretionary power over the subject. A rule that a pupil not prepared with a rhetorical exercise should be suspended unless excused for cause is reasonable. Neither the board nor the teacher suspending a pupil under such rule is liable for damages. 29 O. S., 89.

The rules must not be inconsistent with Sec. 3982 R. S., 52 O. S., 138, 149.

If a deliberative body adopts rules, but no rule for suspending a rule, a suspension cannot be by a bare majority, for the rule would then have no force as a rule. 2 C. C., 510, 517.

Corporal punishment may be inflicted if such are the rules of the school, and an unknown predisposition to certain diseases will not make an otherwise proper punishment tortious. 4 B., 81.

A reporter is on the floor of a school board as a privilege and not as a right, a gallery being provided for the rest of the public, and the board may expel him. 9 B., 242.

SCHOOL DISCIPLINE.

The conduct of the pupils upon any part of the premises connected with the school house or in the immediate vicinity of the same (the pupils being thus virtually under the care of the teacher), whether within the regular school hours or before or after them, is properly cognizable by the teacher. And any disturbance made by them within range injuriously affecting in any way the interests of the school, may clearly be the subject of reproof and correction by the teacher. Barden, School Law, p. 79.

The right of a schoolmaster to correct his scholars has always been practically and judicially sanctioned, but the chastisement must not exceed the limits of moderate correction; and though courts are bound, with a view to the maintenance of necessary order and decorum in schools, to look with all reasonable indulgence upon the exercise of this right, yet, whenever the correction shall appear to have been clearly excessive and cruel, it must be adjudged illegal. 10 Vt., 108.

The parent may be said to exercise a judicial authority in determining what punishment *by himself*, is proper for his child, but is liable, criminally, in a clear case of excess. *Johnson v. State*, 2 Hump, 288. The teacher also acts judicially in such a case, and is not to be made liable, civilly or criminally, unless he acted with express malice, or was guilty of such excess that malice must be implied. 2 Dev. and Bat., 365; 4 Ind. R., 290.

Whether under the facts the punishment is excessive, must be left to the jury to decide. *Commonwealth of Massachusetts v. Randall*, 4 Gray, 38.

If the effects of acts done out of school houses reach within the school-room during school hours, and are detrimental to good order and the best interests of the pupils, it is evident tht such acts may be forbidden. 31 Ia., 562.

Though a schoolmaster has, in general, no right to punish a pupil for misconduct committed after the dismissal of school for the day and the return of the pupil to his home, yet he may on the pupil's return to school, punish him for any misbehavior, though committed out of school, which has a direct or immediate tendency to injure the school and to subvert the master's authority. 32 Vt. 114.

While the decisions in Ohio are very limited on this subject, it seems to be the consensus of opinion throughout the different states that the teacher's authority over a pupil extends to all actions taking place in the immediate vicinity of the school; that on the pupil's way to and from school the authority of the parent and teacher is concurrent, the parent taking precedent when both are present, and that the teacher can call a pupil to account for misconduct, committed at any time, tending to impair the usefulness of the school or to subvert the teacher's authority.

A court may review the action of a board and pass upon the reasonableness of any of its rules, but if they have erred, while discharging their duty in good faith, they are not liable to action therefor. 32 Vermont, 224.

The act of the board of education and the teachers, in matters of organizing, grading, and governing the school, will be conclusive, unless the power is abused or perverted under some apparently reasonable pretense. 23 Pick., 224; 2 Cushing, 198.

"A teacher, in the exercise of the power of corporal punishment, must not make such power a pretext for cruelty and oppression; but the cause must be sufficient, the instrument suitable, and the manner and extent of the correction, the part of the person to which it is applied, and the temper in which it is inflicted, should be distinguished with the kindness, prudence, and propriety which become the station." *Cooper v. McJunkin*, 4 Ind., 290.

A schoolmaster is not relieved from liability in damages for the punishment of a scholar which is *clearly* excessive and unnecessary, by the fact that he acted in good faith and without malice, honestly thinking that the punishment was necessary, both for the discipline of the school and the welfare of the scholar.

If there is any reasonable doubt whether the punishment was excessive, the teacher should have the benefit of the doubt. *Lander v. Seaver*, 32 Vt. R., 123; *Wharton's American Crim. Law*, 1259, and 1 *Sanders on Pl. Ev.*, 144.

In the case of *Martin Quinn v. Mary D. Nolan*, a suit tried in the superior court of Cincinnati, Judge Harmon, in charging the jury, used the following language:

"If the jury should find the defendant did not, in view of all the circumstances, inflict a greater degree of punishment upon the plaintiff's son than she was fairly entitled to do, and was proper, of course they must find for defendant. But, if they should find she did go beyond that, then it would be necessary to go further and inquire into the damages that should be allowed. The law holds a person responsible only for the natural and ordinary consequences of his acts, these consequences which the law presumes he might or should have foreseen at the time he committed the act. Therefore, it might make a difference in the amount of their finding if it should appear that the child was afflicted with or predisposed to certain diseases, and the defendant had no notice thereof from his parents, the boy himself, his appearance, or otherwise. If the defendant, from the knowledge she had of the boy and his appearance, would be justified in supposing him to be like other boys of his age, and inflicted only a proper punishment, then she would not be liable at all, even though unfortunately some hidden defect in the boy's constitution should cause injury to his health to follow. Or, if they should find for the plaintiff, this fact of ignorance on her part would prevent her from being liable for any consequence arising from such weakness or predisposition in the boy, of which she was ignorant in fact, and of which his appearance furnished no warning. It is the duty of parents who send their children to school, whose health or disposition would render the punishment permitted by the rules of the school dangerous or improper, to see the teacher is informed of the fact."

SECTION 475I. A special meeting of a board of education may be called by the president or clerk thereof or by any two members, by serving a written notice of the time

Special meeting of the board.

and place of such meeting upon each member of the board either personally or at his residence or usual place of business. Such notice must be signed by the official or members calling the meeting. (R. S. Sec. 3978.)

Quorum; yeas
and nays in
certain cases.

SECTION 4752. A majority of the members of a board of education shall constitute a quorum for the transaction of business. Upon a motion to adopt a resolution authorizing the purchase or sale of real or personal property or to employ a superintendent or teacher, janitor or other employe or to elect or appoint an officer or to pay any debt or claim or to adopt any text book, the clerk of the board shall publicly call the roll of the members composing the board and enter on the record the names of those voting "Aye" and the names of those voting "No". If a majority of all the members of the board vote aye, the president shall declare the motion carried. Upon any motion or resolution, a member of the board may demand the yeas and nays, and thereupon the clerk shall call the roll and record the names of those voting "Aye" and those voting "No". Each board may provide for the payment of superintendents, teachers and other employes by pay-roll, if it deems advisable, but in all cases such roll call and record shall be complied with. (R. S. Sec. 3982.)

Records of *quasi* corporations are not considered of that absolute verity that parol testimony is inadmissible to show facts upon which the record is silent. 5 O., 136.

An agreement by members of a township board of education, acting in their individual capacity, to purchase from another person apparatus for the schools of the township, and to ratify such contract of purchase at the next meeting of the board, is contrary to public policy, and therefore illegal and void, and not enforceable either against the board or the members thereof as individuals. 29 O. S., 419.

The order of the clerk on the treasurer is not negotiable, and the written acceptance of an order by a treasurer who has gone out of office imposes no greater obligation on the treasurer to pay than if it had been presented without such endorsement. 22 O. S., 144.

Calling the roll and entering the "ayes" and "noes" is mandatory else the election is void. 52 O. S., 138.

Where the minutes show the aye and nay vote and how each member voted but does not state expressly that the roll was called, this is sufficient compliance with this section. 13 C. C., 207.

An election to fill a vacancy on the board is not an election of an officer and would not come under the provisions of this section.

In case a board should really lose half or more of its members, the county commissioners must keep up the schools. As they may do all that a board could do, they may appoint a new board, or members enough to proceed with the appointment to the completion of a new board; see Sec. 7610.

In all cases except those which are declared to require a majority of all the members composing the board, a majority of a quorum is sufficient to pass a measure, and the roll need not be called unless demanded by a member of the board.

No member of a board can delegate his power to act to another person, either a member of the board or otherwise. It is said that this is sometimes done. But acts depending on such delegated votes are void. For heavy penalty attached to such assumption of official duty, see Revised Statutes, Sec. 6913.

Absence of
president or
clerk.

SECTION 4753. If the president or clerk is absent at any meeting of the board of education, the members present shall choose one of their number to serve in his place pro tempore. If both the president and clerk are absent, both places shall be filled. On the appearance of either at the meeting after his place has been so filled, he shall immediately assume the duties of his office. (R. S. Sec. 3983.)

Record of
proceedings
and attesta-
tion thereof.

SECTION 4754. The clerk of the board of education shall record the proceedings of each meeting in a book to be provided by the board for that purpose, which shall

be a public record. The record of proceedings at each meeting of the board shall be read at its next succeeding meeting, corrected, if necessary, and approved, which approval shall be noted in the proceedings. After such approval, the president shall sign the record and the clerk attest it. (R. S. Sec. 3984.)

A board of education can speak only through its records, and these must accordingly be complete, showing just what the board did, and no more. A motion made by a member, seconded by another member, stated by the president, and voted on by the board, is business, and is to be recorded, though not a single member voted for it. Any vote upon it, as to refer, to postpone, or to lay upon the table, is action, and should be recorded. If the board adjourn pending the consideration of the motion, the motion should be recorded. If the mover withdraws the motion, by consent of the board, by general consent it may also be omitted from the records.

The records of a special meeting should state by whom the meeting was called, as the legality of the proceedings depends upon the legality of the call.

If a record is inadequately entered, parol evidence may, it seems, be admitted to show that action was taken which is not found on the records at all. The commissioner of schools of Rhode Island decided, under instruction of Judge Brayton, of the supreme court, that "imperfections in a clerk's record of a resolution do not render invalid a tax properly voted." Yet all these imperfections in the record lead to trouble—some litigation, often to questions which only courts of law can decide, and in which their decision may be such as to defeat what was attempted to be done in the case.

The power to amend the records exists with the clerk while he is in office, but not after his term expires, nor for any purpose other than to make them truthful and complete as to fact. 11 Mass., 477; 17 Maine, 444.

Records of *quasi* corporations are not considered of that absolute verity that parol testimony is inadmissible to show facts upon which the record is silent. 5 Ohio, 136.

Recording of vote in certain cases; see Sec. 4752.

Where a board at a regularly called meeting, makes a contract with a qualified teacher, but no record is made of the proceedings, the teacher may prove, if he can do so by competent parol testimony, such official action of said board. 3 C. C., 517.

Boards may accept bequests.

SECTION 4755. By the adoption of a resolution, a board of education may accept any bequest made to it by will or may accept any gift or endowment from any person or corporation upon the conditions and stipulations contained in the will or connected with the gift or endowment. For the purpose of enabling the board to carry out the conditions and limitations upon which a bequest, gift or endowment is made, it may make all rules and regulations required to fully carry them into effect. No such bequest, gift or endowment shall be accepted by the board if the conditions thereof shall remove any portion of the public schools from the control of such board. (R. S. Sec. 3975.)

SECTION 4756. When a board of education decides to dispose of real or personal property held by it in its corporate capacity, exceeding in value three hundred dollars, it shall sell such property at public auction after giving at least thirty days' notice thereof by publication in a newspaper of general circulation or by posting notices thereof in five of the most public places in the district in which such property is situated. When the board has twice so offered a tract of real estate for sale at public auction and it is not sold, the board may sell it at private sale, either as an entire tract or in parcels, as the board deems best. The president and secretary of the board shall execute and deliver deeds necessary to complete such sale. (R. S. Sec. 3971.)

How real property may be sold.

SECTION 4757. Conveyances made by a board of education shall be executed by the president and clerk

Conveyance and contracts.

thereof. No member of the board shall have directly or indirectly any pecuniary interest in any contract of the board or be employed in any manner for compensation by the board of which he is a member except as clerk or treasurer. No contract shall be binding upon any board unless it is made or authorized at a regular or special meeting of such board. (R. S. Sec. 3974.)

Member of board of education accepting compensation.

SECTION 12883. Whoever, being a member of a board of education, accepts or receives for his services as such member any compensation except as clerk or treasurer of such board or as otherwise provided by law, shall be imprisoned in the penitentiary not less than one year nor more than twenty-one years and fined double the amount of money or other property so accepted or received. (R. S. Sec. 6975.)

Officer or agent interested in contracts.

SECTION 12910. Whoever, holding an office of trust or profit by election or appointment, or as agent, servant or employe of such officer or of a board of such officers, is interested in a contract for the purchase of property, supplies or fire insurance for the use of the county, township, city, village, board of education or a public institution with which he is concerned, shall be imprisoned in the penitentiary not less than one year nor more than ten years. (R. S. Sec. 6969.)

Same as to other contracts.

SECTION 12911. Whoever, holding an office of trust or profit, by election or appointment, or as agent, servant or employe of such officer or of a board of such officers, is interested in a contract for the purchase of property, supplies or fire insurance for the use of the county, township, city, village, board of education or a public institution with which he is not connected, and the amount of such contract exceeds the sum of fifty dollars, unless such contract is let on bids duly advertised as provided by law, shall be imprisoned in the penitentiary not less than one year nor more than ten years. (R. S. Sec. 6969.)

Employing relative as teacher.

SECTION 12932. Whoever, being a local director or member of a board of education, votes for or participates in the making of a contract with a person as a teacher or instructor in a public school to whom he or she is related as father or brother, mother or sister, or acts in a matter in which he or she is pecuniarily interested, shall be fined not less than twenty five dollars nor more than five hundred dollars or imprisoned not more than six months, or both. (R. S. Sec. 6975a.)

Exchange of real estate.

SECTION 4758. Upon a vote of a majority of the members of a board of education and a concurring vote of the council of a municipal corporation, declaring that an exchange of real estate held by such board for school purposes for real estate held by such municipal corporation for municipal purposes will be mutually beneficial to such school district and municipal corporation, such exchange may be made by conveyances, executed by the mayor and clerk of the corporation and by the president and clerk of the board of education, respectively. (R. S. Sec. 3971.)

School property exempt from taxation.

SECTION 4759. Real or personal property vested in any board of education shall be exempt from taxation and from sale on execution or other writ or order in the nature of an execution. (R. S. Sec. 3973.)

Non-taxation of school property; Sec. 5349.

Provisions relating to taxation of school, ministerial, and other lands; Sec. 5330.

School property is not liable to assessment for street improvement; nor can a judgment be rendered against the board of education for the payment of the assessment out of its contingent fund. 48 O. S., 83.

Sidewalk—School property not assessable for. 48 O. S., 87.

Property purchased by a board of education, and upon which there is a mortgage lien, may be sold on foreclosure. 39 B., 76; Aff'd by Supreme Court.

SECTION 4760. Process in all suits against a board of education shall be by summons which shall be served by leaving a copy thereof with the clerk or president of the board. (R. S. Sec. 3976.)

Processes
against boards,
how served.

SECTION 4761. Except in city school districts, the prosecuting attorney of the county shall be the legal adviser of all boards of education of the county in which he is serving. He shall prosecute all actions against a member or officer of a board of education for malfeasance or misfeasance in office, and he shall be the legal counsel of such boards or the officers thereof in all civil actions brought by or against them and shall conduct such actions in his official capacity. When such civil action is between two or more boards of education in the same county, the prosecuting attorney shall not be required to act for either of them. In city school districts, the city solicitor shall be the legal adviser and attorney for the board of education thereof, and shall perform the same services for such board as herein required of the prosecuting attorney for other boards of education of the county. (R. S. Sec. 3977.)

Prosecuting
attorney or
city solicitor
to be counsel
of school
board.

It has been held by attorneys for the state that, since a board of education by the provisions of section 4749 is a body politic and corporate, and is vested with the power of suing and being sued, it is authorized, by implication, to employ legal counsel to assist the prosecutor in any case in which the board is plaintiff or defendant.

SECTION 4762. The duties prescribed by the preceding section shall devolve upon any official serving in a capacity similar to that of prosecuting attorney or city solicitor for the territory wherein a school district is situated, regardless of his official designation. No prosecuting attorney, city solicitor or other official acting in a similar capacity shall be a member of the board of education. No compensation in addition to such officer's regular salary shall be allowed for such services. (R. S. Sec. 3977.)

When other
officers may
act; restric-
tions.

CHAPTER 7.

TREASURER AND CLERK.

SECTION

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- 4767. Counting of funds.
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SECTION

- 4775. Annual statistical report of board of expenditures by clerk.
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- 4784. Provisions when depository ceases to act.

Treasurer of
school funds.

SECTION 4763. In each city, village and township school district, the treasurer of the city, village and township funds, respectively, shall be the treasurer of the school funds. In each special district the board of education shall choose its own treasurer, whose term of office shall be for one year beginning on the first day of September. (R. S. Sec. 4042.)

The relations between the board of education and the treasurer are such that one person can not be a member of the board and at the same time act as its treasurer. In passing upon the sufficiency of the treasurer's bond, if he be a member of the board, his own vote may determine the action of the board in reference to said bond.

Sec. 19. The state, any county, township, municipal corporation, or school board, shall not be precluded by the illegal loan or deposit by any officer or agent of public money, funds, property, bonds, securities, or assets, belonging to it, from suing for and recovering the same; and such suit shall not be held to be an adoption or satisfaction of such illegal transaction.

Embezzlement of school funds, penalty; see sections 12873, 12878.

What is prima facie evidence of embezzlement by public officers; see Sec. 13674.

Township trustees have no authority to release a treasurer from his liability for any portion of the school fund belonging to the township. 13 O., 495.

Bond of
treasurer.

SECTION 4764. Before entering upon the duties of his office, each school district treasurer shall execute a bond, with sufficient sureties, in a sum not less than the amount of school funds that may come into his hands, payable to the state, approved by the board of education, and conditioned for the faithful disbursement according to law of all funds which come into his hands, provided that when school moneys have been deposited under the provisions of sections 7604-7608 inclusive, the bond shall be in such amount as the board of education may require. (As amended May 10, 1910.)

Additional
sureties or
new bond.

SECTION 4765. Thereafter such treasurer may be required to give additional sureties on his accepted bond, or to execute a new bond with sufficient sureties to the approval of the board of education when such board deems it necessary. If he fails for ten days after service of notice in writing of such requisition, to give such bond or additional sureties, as so required, the office shall be declared vacant and filled as in other cases. (R. S. Sec. 4043.)

SECTION 4766. Each such bond, when so executed and approved, shall be filed with the clerk of the board of education of the district, and recorded. He shall cause a certified copy thereof or the names of additional sureties, to be filed with the county auditor without delay. (R. S. Sec. 4043.)

Filing and approval of bond.

SECTION 4767. Such board at the time of the approval of any bond or sureties, shall require the treasurer of the school funds to produce all money, bonds or other securities in his hands as such treasurer, and they then must be counted by the board or a committee thereof, in the presence of its clerk, who thereupon shall enter upon the records of the board, a certificate, setting forth the exact amount of money or securities so found in the hands of such treasurer. Such record shall be signed by the president and clerk of the board and be prima facie evidence that the amount therein stated was actually in the treasury at that date. (R. S. Sec. 4043.)

Counting of funds.

SECTION 4768. No treasurer of a school district shall pay out any school money except on an order signed by the president or vice-president, and countersigned by the clerk of the board of education, and when such school moneys have been deposited as provided by sections 7604-7608 inclusive, no money shall be withdrawn from any such depository, except upon an order signed by the treasurer and by the president or vice president and countersigned by the clerk of the board of education; and on money shall be paid to the treasurer of the district other than that received from the county treasurer, except upon the order of the clerk of the board, who shall report the amount of such miscellaneous receipts to the county auditor each year immediately preceding such treasurer's settlement with the auditor. (As amended May 10, 1910.)

When treasurer may receive or pay money.

A board of education has capacity to sue its treasurer for money received and not accounted for. The remedy is not limited to an action on the bond, but may be for money had and received. 51 O. S., 115.

The treasurer should not pay an order for what he believes to be an illegal object, until he can consult with other members of the board, and have the question fully investigated. A man of discretion is supposed to be chosen to this, as to other offices, that the chances for discovering errors and fraud may be multiplied.

SECTION 4769. The clerk of a board of education or the county auditor shall pay no money into the hands of the treasurer of a school district in excess of the amount of his bond. Should any such clerk or auditor violate this provision, he and his bondsmen shall be liable for any loss occasioned thereby. But where depositories for school funds have been created under the provisions of sections 7604-7608 inclusive, all school moneys shall be paid directly into such depository or depositories by the auditor upon the written order of the board of education signed by the president or vice president and countersigned by the clerk. In case the school funds have been deposited under the provisions of sections 7604-7608 inclusive, the limitation of payment herein contained shall not apply. Before giving

Maximum amount of funds which treasurer may hold.

such treasurer a warrant or order for school funds, the auditor may require the treasurer to file with him a statement showing the amount of such funds in his possession, signed by the clerk of the board of education. (R. S. Sec. 4048.)

Annual settle-
ment by treas-
urer with
county auditor.

SECTION 4770. Within the first ten days of September, each year, the treasurer shall settle with the county auditor for the preceding school year, and for that purpose he shall make a certified statement showing the amount of money received, from whom, and on what account, the amount paid out, and for what purpose. He shall produce vouchers for all payments made. If the auditor, on examination, finds the statement and vouchers to be correct, he shall give the treasurer a certificate of the fact, which shall prima facie be a discharge of the treasurer for the money paid. When the treasurer's term begins on the first day of September, the annual settlement shall be made by the outgoing treasurer. (R. S. Sec. 4044.)

If it is evident to the county auditor that the school moneys have been illegally paid out, as they would if paid to any member of a board of education on any contract with such board, or as an employee thereof, it is his duty to refuse the treasurer credit for the same. If moneys have been paid from the wrong fund, as from the school fund, when the law says it must be township fund, the auditor must not allow credit to such orders. He should insist on their correction by the board, or correct them himself by proper debit and credit. No voucher should be received by the auditor which he has reason to believe a court of law would reject. No paper is a voucher for the payment of money to A, which has not A's receipt on it, or accompanying it. An order properly made out, but merely marked "paid" by the treasurer, is not a receipt.

Compensation
for making
settlement.

SECTION 4771. For making such settlement, the treasurer shall be entitled to receive the sum of one dollar, and also five cents per mile for traveling to and from the county seat, to be paid from the county treasury, on the order of the county auditor. (R. S. Sec. 4044.)

Penalty for
failure to make
settlement.

SECTION 4772. If the treasurer of any school district willfully or negligently fails to make such annual settlement within the time so prescribed, he shall forfeit and pay fifty dollars, to be recovered in a civil action in the name of the state, which amount, when collected, shall be paid into the county treasury and applied to the use of the common schools in his district. In case of such failure, the county auditor shall proceed forthwith to recover the forfeiture by suit against the treasurer before a justice of the peace of the county. (R. S. Sec. 4045.)

Treasurer to
deliver funds
to successor.

SECTION 4773. At the expiration of his term of service, each treasurer shall deliver to his successor in office, all books, papers, money, and other property in his hands belonging to the district, and take duplicate receipts of his successor therefor. One of these he shall deposit with the clerk of the board of education within three days thereafter. (R. S. Sec. 4049.)

Penalty for failure or refusal to pay over public money; see Section 13674.

Bond of clerk.

SECTION 4774. Before entering upon the duties of his office, the clerk of each board of education shall execute a

bond, in an amount and with surety to be approved by the board, payable to the state, conditioned for the faithful performance of all the official duties required of him. Such bond must be deposited with the president of the board, and a copy thereof, certified by him, shall be filed with the county auditor. (R. S. Sec. 4050.)

Township clerk is authorized to administer oaths connected with school affairs; see Sec. 3303.

Board can not authorize clerk to become custodian of tuition funds.

74 O. S., 50.

Duties and powers of clerk, 170 D. N. P., 108; 20 O. C. C., 32 (N. S. 120).

SECTION 4775. The clerk of each board of education shall prepare the annual report of the receipts and expenditures of school money and the statistical statement in reference to the schools, required by law to be made by the board, and transmit it to the county auditor on or before the first day of September. But in each school district having a superintendent of schools, such report, except the receipts and expenditures of money, shall be made by the superintendent. (R. S. Sec. 4052.)

Annual statistical report of board of education.

Penalty for not making report; see Sec. 7790.

The board of education should see that the reports required by this section are filed before allowing compensation to the clerk for his services.

SECTION 4776. Except city districts, the board of education of each district shall require the clerk of the board annually, ten days prior to the election, to prepare and post at the place or places of holding such elections, or publish in some newspaper of general circulation in the district, an itemized statement of all money received and disbursed by the treasurer of the board, within the school year next preceding. (R. S. Sec. 4053.)

Publication of statement of receipts and expenditures by clerk.

SECTION 4777. At the expiration of his term of office, each clerk shall deliver to his successor all books and papers in his hands relating to the affairs of his district, including certificates, and copies thereof, and reports of school statistics, filed by teachers. (R. S. Sec. 4054.)

Clerk to deliver goods, etc., to successor.

SECTION 4778. The auditor of each county shall furnish to the clerk and treasurer of each school district in his county a suitable blank book, made according to the form prescribed by the bureau of inspection and supervision of public offices, in which each must keep an account of the school funds of his district. (R. S. Sec. 4055.)

How treasurer and clerk to keep accounts.

SECTION 4779. The clerk's account shall show the amounts certified by the county auditor to be due the district, all sums paid to the treasurer from other sources on his order, and all orders drawn by him on the treasurer, upon what funds and for what purposes drawn. (R. S. Sec. 4055.)

Clerk's account.

SECTION 4780. The treasurer's accounts shall show the amounts received from the county treasurer, all sums received from other sources on the order of the clerk, the amounts paid out, and from what funds and for what purposes paid. A separate account of each fund must be kept, and each account balanced at the close of the school year,

Treasurer's account.

and the balance in the treasurer's hands belonging to each fund shown. (R. S. Sec. 4055.)

Embezzlement
by municipal
and school
officers.

SECTION 12878. Whoever, being a member of the council of a municipal corporation, or an officer, agent, clerk or servant of such corporation, or board or department thereof, or an officer, clerk or servant of a board of education, knowingly diverts, appropriates or applies funds, or a part of a fund raised by taxation or otherwise, to any use or purpose other than that for which it was raised or appropriated, or knowingly diverts, appropriates or applies money borrowed, or a bond of the corporation or part of the proceeds of such bond, to any use or purpose other than that for which such loan was made, or bond issued, shall be imprisoned in the penitentiary not less than one year nor more than twenty-one years and fined in double the amount of money or other property embezzled. (R. S. Sec. 6846.)

Compensation
of treasurer
and clerk.

SECTION 4781. The board of education of each school district shall fix the compensation of its clerk and treasurer, which shall be paid from the contingent fund of the district. If they are paid annually, the order for the payment of their salaries shall not be drawn until they present to the board of education a certificate from the county auditor stating that all reports required by law have been filed in his office. If the clerk and treasurer are paid semi-annually, quarterly, or monthly, the last payment on their salaries previous to August thirty-first, must not be made until all reports required by law have been filed with the county auditor and his certificate presented to the board of education as required herein. (R. S. Sec. 4056.)

When treasurer of school moneys may be dispensed with.

SECTION 4782. When a depository has been provided for the school moneys of a district, as authorized by law, the board of education of the district, by resolution adopted by a vote of a majority of its members, may dispense with a treasurer of the school moneys, belonging to such school district. In such case, the clerk of the board of education of a district shall perform all the services, discharge all the duties and be subject to all the obligations required by law of the treasurer of such school districts. (R. S. Sec. 4042a.)

When clerk shall perform the duties of treasurer.

SECTION 4783. When the treasurer is so dispensed with, all the duties and obligations required by law of the county auditor, county treasurer or other officer or person relating to the school moneys of the district shall be complied with by dealing with the clerk of the board of education thereof. Before entering upon such duties, the clerk shall give an additional bond equal in amount and in the same manner prescribed by law for the treasurer of the school district. (R. S. Sec. 4042a.)

Provisions when depository ceases to act.

SECTION 4784. If for any reason, a depository in such district ceases to act as custodian of the school moneys, they shall be placed in the custody of the treasurer of the city, village or township in which the school district is located or of the special school district upon such treasurer giving bond as required by law, to the approval of the board of

education. Such moneys shall be held and disbursed by the treasurer in all respects as required by law until another depository is provided for such moneys. Thereupon he shall place such money in the depository and his duties and obligations relating thereto shall then cease. (R. S. Sec. 4042a.)

TITLE XIV. PUBLIC ELECTIONS.

Election of
members of
the board of
education.

SECTION 4838. All elections for members of boards of education shall be held on the first Tuesday after the first Monday in November in the odd numbered years. (97 v. 40 § 2.)

Notice of
school
elections.

SECTION 4839. The clerk of each board of education shall publish a notice of all school elections in a newspaper of general circulation in the district or post written or printed notices thereof in five public places in the district at least ten days before the holding of such election. Such notices shall specify the time and place of the election, the number of members of the board of education to be elected, and the term for which they are to be elected, or the nature of the question to be voted upon. (97 v. 354 § 2.)

Qualifications
of elector.

SECTION 4861. Every male citizen of the United States, who is of the age of twenty-one years or over, and possesses the qualifications in regard to residence herein-after provided, shall be entitled to vote at all elections. (Cons. Art. V. § 1.)

When women
may vote.

SECTION 4862. Every woman, born in the United States or who is the wife or daughter of a citizen of the United States, who is over twenty-one years of age and possesses the necessary qualifications in regard to residence hereinafter provided for men shall be entitled to vote and to be voted for for member of the board of education and upon no other question. (97 v. 354 § 3.)

The constitutional power of the legislature to provide for common schools is not limited by the definition of elector in Cons., V, Sec. 1, and the right to vote for school officers may be conferred on women. 9 C. C., 134. This section limits the voting privileges of women. It does not entitle them to vote on such questions as special tax levy, bond issue, erection of public buildings, etc., although the same be for school purposes.

Registration
of women.

SECTION 4940. The provisions of this chapter relating to registration shall apply to women upon whom the right to vote for member of the board of education is conferred by law, but the names of such women may be placed on a separate list. (97 v. 254 § 3.)

Nominations
of candidates
for board of
education.

SECTION 4997. Nominations of candidates for the office of member of the board of education may be made by nomination papers, signed in the aggregate for each candidate by not less than twenty-five qualified electors of either sex of the school district, except in city school districts, such nomination papers shall be signed by petitioners not less in number than one for every one hundred persons who voted at the next preceding general election in such city. (R. S. Sec. 3897a.)

SECTION 4998. When nominations of candidates for member of the board of education have been made by nomination papers filed with the board of deputy state supervisors, as herein provided, such board of deputy state supervisors shall publish on two different days prior to the election a list of the names of such candidates in two newspapers of opposite politics in the school district, if there is such printed and published therein. If no newspaper is printed in such school district, the board shall post such list in at least five public places therein. (R. S. Sec. 3897a.)

Names of nominees for board published.

SECTION 5032. The names of candidates for members of the board of education of a school district, however nominated, shall be placed on one independent and separate ballot without any designation whatever, except for member of board of education and the number of members to be elected. (98 v. 116 § 1.)

Ballots for school board.

SECTION 5033. The ballots for members of the board of education shall be prepared and printed as follows: The whole number of ballots to be printed for the school district shall be divided by the number of candidates for member of board of education of the district, and the quotient so obtained shall be the number of ballots in each series of ballots to be printed. The names of candidates shall be arranged in alphabetical order and the first series of ballots printed. Then the first name shall be placed last and the next series printed, and so shall the process be repeated until each name shall have been first. These ballots shall then be combined in tablets with no two of the same order of names together, except when there is but one candidate. (98 v. 116 § 2.)

How ballot for school board printed.

SECTION 5034. In city school districts, the ballots for each subdistrict shall contain the names of the candidates for member of the board of education from such subdistrict and also the names of the candidates to be elected at large. (97 v. 354 § 1.)

School districts in cities.

SECTION 5049. There shall be separate poll books and tally sheets for all elections for school purposes and the ballots of the electors at such elections shall be deposited in a separate ballot box. (97 v. 354 § 1.)

Poll books and tally sheets for school elections.

SECTION 5120. In school elections, the returns shall be made by the judges and clerks of each precinct to the clerk of the board of education of the district, not less than five days after the election. Such board shall canvass such returns at a meeting to be held on the second Monday after the election, and the result thereof shall be entered upon the records of the board. (97 v. 354 § 1.)

Canvass of vote in school elections.

SECTION 5121. In the canvass of the vote for members of the board of education, or assessors of real property, the person having the highest number of votes shall

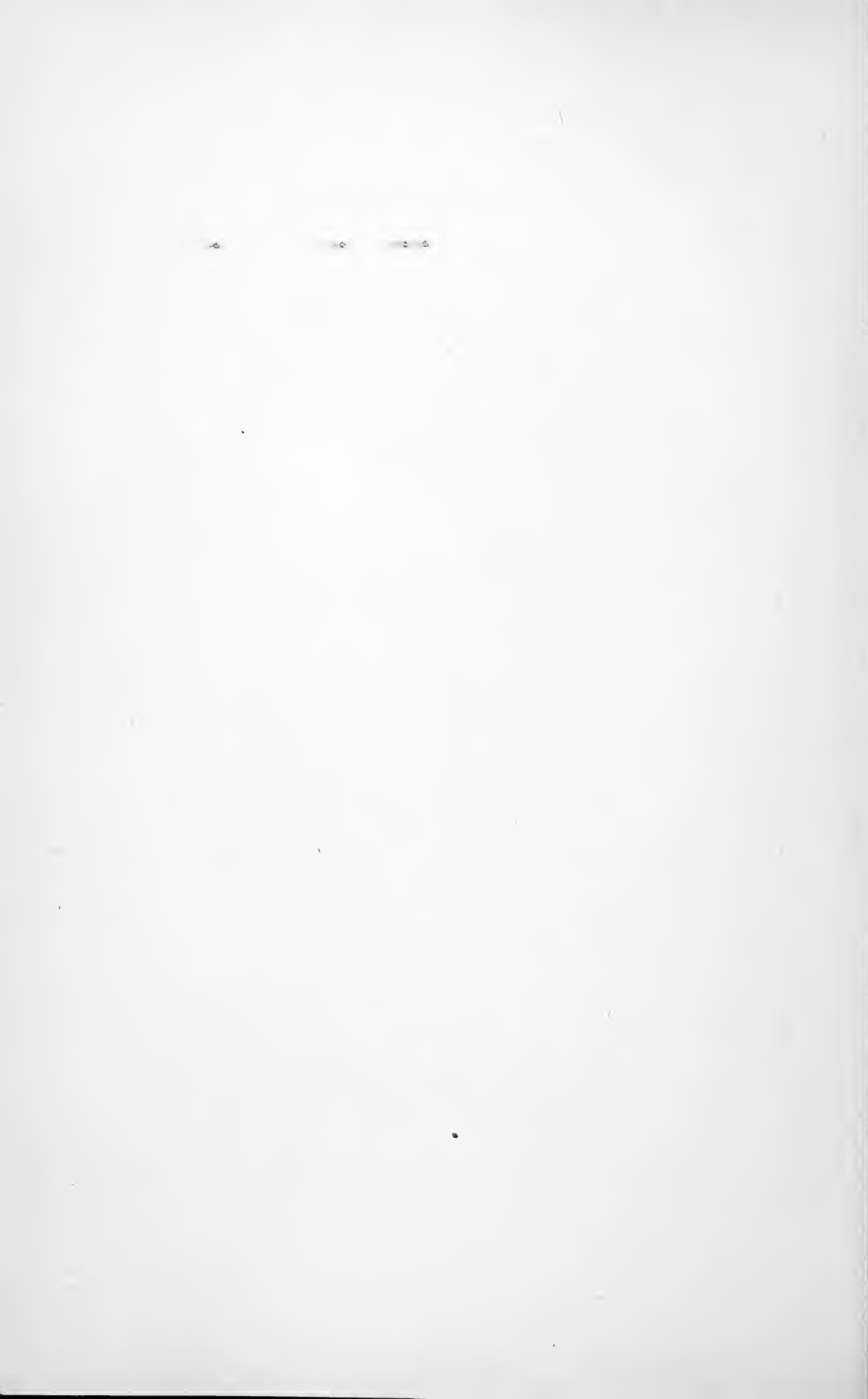
How result determined in certain cases.

be declared elected, and the next highest, and so on, until the number required to be elected shall have been selected from the number having the highest number of votes. If any number of persons greater than the number to be elected at such election have the highest and an equal number of votes, the board making the canvass shall determine by lot which of the persons shall be duly elected. (97 v. 354 § 1; 98 v. 116 § 1; 100 v. 81 § 1.)

PART SECOND

CIVIL

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CHAPTER 1.

SCHOOL FUNDS.

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"The state common school fund;" tax levy for.

SECTION 7575. For the purpose of affording the advantages of a free education to all the youth of the state, there shall be levied annually a tax of one mill on the grand list of the taxable property of the state, to be collected as are other state taxes and the proceeds of which shall constitute "the state common school fund," and for the payment of interest on the irreducible or trust fund debt for school purposes, ten one-hundredths of one mill, such fund to be styled "the sinking fund." (R. S. Sec. 3951.)

Rate design-
ated by gen-
eral assembly.

SECTION 7576. The rate for such levy shall be designated by the general assembly at least once in two years. If the general assembly fail to designate the rate for any year, it shall be one mill for the state common school fund, and ten one-hundredths of one mill for the sinking fund. (R. S. Sec. 3951.)

Interest upon
proceeds of
salt and swamp
lands.

SECTION 7577. The state shall pay interest annually, at the rate of six per cent per annum, upon all money which has been paid into the state treasury on account of sales of lands commonly called "salt lands," and upon all money paid or which may be paid into the state treasury on account of sales of swamp lands granted to the state by act of congress. The money received from such sales shall constitute an irreducible debt of the state; and the interest shall be apportioned annually on the same basis as the state common school fund is apportioned, and distributed to the several counties as hereinafter provided. (R. S. Sec. 3952.)

Proceeds of
sale of swamp
lands.

SECTION 7578. The net proceeds hereafter paid into the state treasury, from the sales of swamp lands granted to the state by act of congress passed September 28, 1850, is hereby appropriated to the general fund for the support of common schools; and the state is pledged to pay the interest annually, on all sums of money paid into the state treasury, from the sales of such lands, from the receipt of such money into the treasury. The interest so arising shall be distributed, annually, to the several counties of the state, in proportion to the number of male inhabitants above the age of twenty-one as the law provides for ascertaining the apportionment of representatives. The proportion of interest due to each county shall be distributed for the support of common schools, in the respective counties, in the manner prescribed for the distribution of the common school fund. (80 v. 39 § 1.)

The "common
school fund."

SECTION 7579. The money which has been and may be paid into the state treasury on account of sales of lands granted by congress for the support of public schools in any original surveyed township, or other district of country, shall constitute the "common school fund," of which the auditor of state shall be superintendent, and the income of which must be applied exclusively to the support of common schools, in the manner designated in this chapter. (R. S. Sec. 3953.)

Account's of
common
school fund.

SECTION 7580. The common school fund shall constitute an irreducible debt of the state, on which it shall pay interest annually, at the rate of six per cent per annum, to be computed for the calendar year, the first computation on any payment of principal hereafter made to be from the time of payment to and including the thirty-first day of December next succeeding. The auditor of state shall keep an account of the fund, and of the interest which accrues thereon, in a book or books to be provided for the purpose, with each original surveyed township and other

district of country to which any part of the fund belongs, crediting each with its share of the fund, and showing the amount of interest thereon which accrues and the amount which is disbursed annually to each. (R. S. Sec. 3954.)

SECTION 7581. When any grant or devise of land, or donation or bequest of money or other personal property, is made to the state, or to any person, or otherwise, in trust for the common school fund, it shall become vested in such fund. When the money arising therefrom is paid into the state treasury, proper accounts thereof must be kept by the auditor of state, and the interest accruing therefrom shall be applied according to the intent of the grantor, donor, or devisor. (R. S. Sec. 3955.)

Bequests, etc.,
in trust for
common school
fund.

SECTION 7582. The auditor of state shall apportion the state common school fund to the several counties of the state semi-annually, upon the basis of the enumeration of youth therein, as shown by the latest abstract of enumeration transmitted to him by the state commissioner of common schools. Before making his February settlement with county treasurers, he shall apportion such amount thereof as he estimates to have been collected up to that time, and, in the settlement sheet which he transmits to the auditor of each county, shall certify the amount payable to the treasurer of his county. Before making his final settlement with county treasurers each year he shall apportion the remainder of the whole fund collected, as nearly as it can be ascertained, and in the August settlement sheet which he transmits to the auditor of each county shall certify the amount payable to the treasurer of his county. (R. S. Sec. 3956.)

Apportionment
of school
funds by
auditor of
state.

SECTION 7583. In each February settlement sheet the state auditor shall enter the amount of money payable to the county treasurer on the apportionment of interest specified in section seventy-five hundred and seventy-seven, and also enter in each February settlement sheet the amount of money payable to the county treasurer on account of interest for the preceding year on the common school fund, and designate the source or sources from which the interest accrued. With each February settlement sheet he shall transmit a certified statement, showing the amount of interest derived from the common school fund payable to each original surveyed township or other district of country within the county. (R. S. Sec. 3956.)

Apportionment
to be made in
February
settlement.

SECTION 7584. The treasurer of each county, at each semi-annual settlement with the auditor of state, shall retain in the county treasury, from the state taxes collected by him, the amount of the funds herein mentioned shown by the settlement sheet of the auditor of state to be payable to him at that time. If such amount for any county exceeds the amount of state taxes collected therein, the auditor of state shall draw an order on the treasurer of state, in-

Funds to be
retained by
county
treasurer.

favor of the treasurer of such county, for the balance of school funds due his county, and transmit it to such county treasurer, and the treasurer of the state shall pay such order upon its presentation to him. (R. S. Sec. 3956.)

When county
line divides
township.

SECTION 7585. If parts of an original surveyed township or fractional township are situated in two or more counties, the amount of interest on common school fund due to such township shall be paid in the manner provided in the next two preceding sections to the treasurer of the county wherein the greatest relative portion of such township is situated. But if it be uncertain in which county such portion is situated, the amount of interest due to such township shall be paid to the treasurer of the oldest county in which any part of the township is situated. (R. S. Sec. 3957.)

Board of edu-
cation to fix
rate of
taxation.

SECTION 7686. Each board of education, annually, at a regular or special meeting held between the third Monday in April and the first Monday in June, shall fix the rate of taxation necessary to be levied for all school purposes, after the state funds are exhausted. (R. S. Sec. 3958.)

Levy to be
divided into
four funds.

SECTION 7587. Such levy shall be divided by the board of education into four funds: First, tuition fund; second, building fund; third, contingent fund; fourth, bonds, interest and sinking fund. A separate levy must be made for each fund. (R. S. Sec. 3958.)

"A notice, by a clerk of a board of education, of a tax voted by the board, to build a school house, delivered to the auditor on the 11th day of June, is sufficient authority to the auditor for carrying the tax into his duplicate." II Western Law Monthly, 589.

It is a general rule that statutes, so far as they limit a time for the performance of an act by a public officer, for the public benefit, are merely directory, when *time* is not the *essence* of the thing to be done, unless there are negative words, and the act is valid if done afterwards.

Tuition from non-resident pupils is to be paid to the board of education, and placed in the contingent fund. A teacher has absolutely no authority to retain money received for tuition of non-resident pupils.

Prior to the passage of the present school code (97 O. L. 324), a valid assessment for street improvements could not be levied against school property. Whether the division of the contingent school fund into separate funds by the present school code will render valid such assessments levied since the enactment of the school code, *quaere*. 15 O. D. N. P., 324; 43 O. S., 83.

The Attorney General inclines to the opinion that such special assessments against school property are not collectible under the present school code, and a test case involving this question is now pending in the Common Pleas Court, brought at his suggestion.

Levy of taxes
for special
school dis-
tricts

SECTION 7588. In all cases of special school districts lying wholly within one civil township, or if the special district lies in and is part of two or more civil townships of the same or different counties, or two or more special districts lie wholly or partly within one civil township, a tax for school purposes may be levied, not exceeding six mills, on the duplicate of all the taxable property in such township lying outside of all city and village school districts therein. Such levy shall be made when a petition in writing signed by two-thirds of the electors of such civil township is filed with the clerk of the board of education of the township, by a joint board consisting of the board of education of that township and the board of education of the

special school district, or of the board of education of that township and the boards of education of the special school districts as the case may be, acting in joint session, at a meeting or meetings to be called for that purpose, by the president of the township board of education between the third Monday in April and the first Monday in June of each year. If such boards fail so to meet, or fail to agree and make such levy then it shall be made by the county commissioners on the application of either board. (R. S. Sec. 3958a.)

SECTION 7589. The funds raised from such levy shall be divided between the board of education of the township and of the special school district, or between the board of education of the township and the boards of education of the special school districts, as the case may be, in proportion to the number of children of that township of school age living in the township outside of the special school district and living in the township within the special school district or districts. In addition to the general levy by the joint boards, either board may levy an additional tax, not to exceed six mills, on the duplicate of all the taxable property within its own territory. The funds arising from such levy shall be used only for schools within the territory where the additional levy is made. (R. S. Sec. 3958a.)

How funds
divided.

SECTION 7590. If the levy so made by such boards is inequitable to either, or insufficient to provide for and maintain the schools in either the township or special school districts, either board may appeal to the county commissioners of the county in which the township is situated to adjust and make the levy. The commissioners then may make such levy, not exceeding six mills, for the purposes named in the next two preceding sections, as they may deem just and equitable and sufficient to provide for and maintain the schools in such township and school district. If either of such boards of education meet to fix a levy for school purposes, as provided in section seventy-five hundred and eighty-six, before the levy is fixed by the joint board as above provided, and the levy so made by such board of education, acting independently, is more than six mills on the dollar of valuation of taxable property in its school district, then the excess of the levy above the six mills shall be subject to division in proportion and manner as provided in the next preceding section between the township and special districts. (R. S. Sec. 3958a.)

Appeal to
county com-
missioners.

SECTION 7591. Except as hereinafter provided, the local tax levy for all school purposes shall not exceed twelve mills on the dollar of valuation of taxable property in any school district, and in city school districts shall not be less than six mills. Such levy shall not include any special levy for a specified purpose, provided for by a vote of the people. (R. S. Sec. 3959.)

Maximum
levy.

Greater tax
may be
levied.

SECTION 7592. A greater or less tax than is authorized above may be levied for any or all school purposes. Any board of education may make an additional annual levy of not more than five mills for any number of consecutive years not exceeding five, if the proposition to make such levy or levies has been submitted by the board, to a vote of the electors of the school district, under a resolution prescribing the time, place and nature of the proposition to be submitted, and approved by a majority of those voting on the proposition. (R. S. Sec. 3959.)

Notice of
election.

SECTION 7593. Notice of such election must be given by publication of the resolution for three consecutive weeks prior thereto in some newspaper published and of general circulation in the district, or by posting copies thereof in five of the most conspicuous places in the district for a like period, if no such paper is published therein. (R. S. Sec. 3959.)

Amount of
levy to be
certified to
county au-
ditor.

SECTION 7594. The amount of the levy fixed by the boards of education under the next eight preceding sections, shall be certified to the county auditor, in writing, on or before the first Mnday in June of each year by the boards of education, and on or before the first Monday in August of each year by the county commissioners when the levy is made by them, who shall assess the entire amount upon all the taxable property of the district, and enter it upon the tax duplicate of the county. The county treasurer shall collect it at the time and in the same manner as state and county taxes are collected, and pay it to the treasurer of the district upon the warrant of the county auditor. He shall receive one per cent on all moneys so collected and no more. (R. S. Sec. 3960.)

Boards of education required to certify levy for building and other purposes, to the county auditor, in addition to the levy provided for in Secs. 7591-7595; see Sec. 7626.

Where a board of education certifies an estimate of a school tax to the county auditor, who places the same on the tax list in a reduced form, a citizen and taxpayer of the school district who, five months thereafter, seeks by mandamus on his own relation, to compel the auditor to place the original estimate on the tax list, must satisfy the court that the board of education did not consent to the reduction. 39 O. S., 455.

County commissioners to act as board of education in case the latter neglects to perform its duty; see Sec. 7610.

Salary of
teachers.

SECTION 7595. No person shall be employed to teach in any public school in Ohio for less than forty dollars a month. When a school district has not sufficient money to pay its teachers forty dollars per month for eight months of the year, after the board of education of such district has made the maximum legal school levy, three-fourths of which shall be for the tuition fund, then such school district may receive from the state treasurer sufficient money to make up the deficiency. (98 v. 200 § 1.)

The 78th General Assembly at its regular session, 1910, appropriated \$50,000 to aid weak school districts.

State aid.

SECTION 7596. A board of education having such a deficit must make affidavits to the county auditor, who shall send a certified statement of the facts to the state auditor.

The state auditor shall issue a voucher on the state treasurer in favor of the treasurer of such school district for the amount of the deficit in the tuition fund. (98 v. 200 § 1.)

SECTION 7597. No district shall be entitled to state aid as provided in the next two preceding sections, unless the number of persons of school age in such district is at least twenty times the number of teachers employed therein. (98 v. 200 § 2.)

Certain districts not entitled to state aid.

SECTION 7598. When a school district is composed of territory in two or more counties, the rate of taxation shall be ascertained by the board of education of such district and be certified to the auditors of the several counties, who must place it on the tax duplicate. It shall be collected as provided in section seventy-five hundred and ninety-four. (R. S. Sec. 3963.)

When district situated in two or more counties.

SECTION 7599. The funds belonging to a district composed of territory in more than one county shall be paid by the treasurers of the other counties to the treasurer of the county having the greatest tax valuation in such district. The auditors of other counties must make settlement on account of such funds with the auditor of the county having the greatest tax valuation; and the treasurer of the district shall make the settlement with such auditor, required by section seventy-six hundred and two. (R. S. Sec. 3963.)

To whom funds paid.

SECTION 7600. After each annual settlement with the county treasurer, each county auditor shall immediately apportion the school funds for his county. The state common school fund must be apportioned in proportion to the enumeration of youth in each of the several school districts within the county, except if an enumeration of the youth of any district has not been taken and returned for any year, such district shall not be entitled to receive any portion of such fund. The local school tax collected from the several districts must be paid to the districts from which it was collected. Money received from the state on account of interest on the common school fund shall be apportioned to the school districts and parts of districts within the territory designated by the auditor of state as entitled thereto, in proportion to the enumeration of youth therein. All other money in the county treasury for the support of common schools, and not otherwise appropriated by law, shall be apportioned annually in the same manner as the state common school fund. (R. S. Sec. 3964.)

Apportionment of school fund.

The auditor's duty to apportion the state common school fund among the districts, according to the number of youth is not excused by his inability to apportion other funds. His failure to apportion such fund does not authorize the township school board to treat it as a contingent fund and apportion it at discretion. Hence the indebtedness of the township board for building school houses in an amount exceeding all the funds is no defense to a salary order of a teacher in a sub-district, entitled to one-fourth of the state common school fund, its contingent fund being exhausted. 9 C. C., 13.

SECTION 7601. Immediately after such apportionment is made, the auditor must enter it in a book to be kept for that purpose, and furnish a certified copy of the apportion-

Distribution of money after apportionment.

ment to each school treasurer and clerk in his county. He shall give to each of such treasurers an order on the county treasurer for the amount of money payable to him, and take his receipt therefor. (R. S. Sec. 3965.)

Boards of education can leave school moneys in county treasury and draw the same from time to time in amounts of not less than one hundred dollars; see Sec. 2690.

County auditors shall in no case permit treasurer to have in his hands school funds amounting to more than the amount of his bond; see Sec. 4769.

When county line divides original surveyed township.

SECTION 7602. When an original surveyed township or fractional township is situated in two or more counties, and the land granted thereto by congress for the support of public schools has been sold, the auditor of the county to whose treasurer the interest on the proceeds of such sale is paid must apportion such interest to the counties in which such township is situated, in proportion to the youth of the township enumerated in each. Such auditor shall certify to the auditor of each of the other counties the amount so ascertained to belong to the part of the township situated in his county, and transmit to the treasurer of each of such counties an order on the treasurer of his own county for such amount. The auditor of each county shall apportion the amount of such interest belonging to the part of the township in his county, to the districts or parts of districts entitled thereto, in proportion to the enumeration of youth therein, and certify and pay it to the proper school officers, as provided in the next preceding section. (R. S. Sec. 3966.)

Certificate of apportionment.

SECTION 7603. The certificate of apportionment furnished by the county auditor to the treasurer and clerk of each school district must exhibit the amount of money received by each district from the state, the amount received from any special tax levy made for a particular purpose, and the amount received from local taxation of a general nature. The amount received from the state common school fund and the common school fund shall be designated the "tuition fund" and be appropriated only for the payment of superintendents and teachers. Funds received from special levies must be designated in accordance with the purpose for which the special levy was made and be paid out only for such purpose, except that, when a balance remains in such fund after all expenses incident to the purpose for which it was raised have been paid, such balance will become a part of the contingent fund and the board of education shall make such transfer by resolution. Funds received from the local levy for general purposes must be designated so as to correspond to the particular purpose for which the levy was made. Moneys coming from sources not enumerated herein shall be placed in the contingent fund. (R. S. Sec. 3967.)

Depositing of school funds upon competitive bidding.

SECTION 7604. The board of education of any school district by resolution shall provide for the deposit of any or all moneys coming into the hands of its treasurer. But no bank shall receive a deposit larger than the amount of its

paid in capital stock, and in no event to exceed three hundred thousand dollars. (R. S. Sec. 3968, as amended May 10, 1910.)

Capital Stock means *capital*; hence, unincorporated as well as incorporated banks may become depositaries. This section prior to amendment of 1910, held to be mandatory after passage of resolution. 15 O. D. N. P., 720.

SECTION 7605. In school districts containing two or more banks such deposit shall be made in the bank or banks, situated therein, that at competitive bidding offer the highest rate of interest which must be at least two per cent for the full time funds or any part thereof are on deposit. Such bank or banks shall give a good and sufficient bond in a sum not less than the amount deposited. The treasurer of the school district must see that a greater sum than that contained in the bond is not deposited in such bank or banks and he and his bondsmen shall be liable for any loss occasioned by deposits in excess of such bond. (R. S. Sec. 3968, as amended May 10, 1910.)

When district contains two or more banks.

SECTION 7606. The board shall determine in such resolution the method by which bids shall be received, the authority which is to receive them, the time for which such deposits shall be made and all details for carrying into effect the authority herein given. All proceedings in connection with such competitive bidding and deposit of moneys must be so conducted as to insure full publicity and shall be open at all times to public inspection. If in the opinion of a board of education there has been any collusion between the bidders, it may reject any or all bids and arrange for the deposit of funds in a bank or banks without the district as hereinafter provided for in districts not having two or more banks located therein. (R. S. Sec. 3968.)

Bids.

SECTION 7607. In all school districts containing less than two banks, after the adoption of a resolution providing for the deposit of its funds, the board of education may enter into a contract with one or more banks that are conveniently located and offer the highest rate of interest, which shall not be less than two per cent for the full time the funds or any part thereof are on deposit. Such bank or banks shall give good and sufficient bond in a sum at least equal to the amount deposited. The treasurer of the school district must see that a greater sum than that contained in the bond is not deposited in such bank or banks, and he and his bondsmen shall be liable for any loss occasioned by deposits in excess of such bond. (R. S. Sec. 3968, as amended May 10, 1910.)

Districts containing less than two banks.

SECTION 7608. The resolution and contract in the next four preceding sections provided for, shall set forth fully all details necessary to carry into effect the authority therein given. All proceedings connected with the adoption of such resolution and the making of such contract must be conducted in such a manner as to insure full publicity and shall be open at all times to public inspection. (R. S. Sec. 3968.)

What resolution to contain.

Liability of
treasurer
relieved.

SECTION 7609. When a depository is lawfully provided, and the funds are deposited therein, the treasurer of the school district and his bondsmen shall be relieved from any liability occasioned by the failure of the bank or banks of deposit or by the failure of the sureties therefor, or by the failure of either of them, except as above provided in cases of excessive deposits (R. S. Sec. 3968, as amended May 10, 1910.)

Neglect of
certain duties
by board.

SECTION 7610. If the board of education in a district fails in any year to estimate and certify the levy for a contingent fund as required by this chapter, or if the amount so certified is deemed insufficient for school purposes, or if it fails to provide sufficient school privileges for all the youth of school age in the district or to provide for the continuance of any school in the district for at least thirty-two weeks in the year, or to provide for each school an equitable share of school advantages as required by this title, or to provide suitable school houses for all the schools under its control, or to elect a superintendent or teachers, or to pay their salaries, or to pay out any other school money needed in school administration, or to fill any vacancies in the board within the period of thirty days after such vacancies occur, the commissioners of the county to which such district belongs, upon being advised and satisfied thereof, shall perform any or all of such duties and acts, in the same manner as the board of education by this title is authorized to perform them. All salaries and other money so paid by the commissioners of the county, shall be paid out of the county treasury as are other county expenses, but they shall be a charge against the school district for which the money was paid. The amount so paid shall be retained by the county auditor from the proper funds due to such school district, at the time of making the semi-annual distribution of taxes. (R. S. Sec. 3969.)

County commissioners can only employ teachers when the township board of education fails to do so; and when they have suspended school in two subdistricts and provided transportation to other districts it is not a failure to make lawful provision for school in such district and the county commissioners cannot interfere. Wayne Tp. (Bd of Ed). v. Shaul, 17 Dec. 269 (4 N. S. 433.)

When the county commissioners have wrongfully interfered with the management of township schools the remedy of the township board of education is by injunction. Wayne Tp. (Bd. of Ed.) v. Shaul, 17 Dec. 269 (4 N. S. 433.).

Personal liability
of board
members.

SECTION 7611. The members of a board who cause such failure shall be each severally liable, in a penalty not to exceed fifty dollars nor less than twenty-five dollars, to be recovered in a civil action in the same of the state upon complaint of any elector of the district, which sum must be collected by the prosecuting attorney of the county and when collected be paid into the treasury of the county, for the benefit of the school or schools of the district. (R. S. Sec. 3969.)

Duty of
county auditor.

SECTION 7612. The auditor of each county shall collect, or cause to be collected, all fines and other money for the support of common schools in his county, and pay them

to the county treasurer. He also must inspect all accounts of interest accruing on account of section sixteen, or other school lands, whether it is payable by the state or by the debtors; and take all proper measures to secure to each school district in his county the full amount of school funds to which it is entitled. (R. S. Sec. 3970.)

FINES TO BE PAID INTO SCHOOL FUND.

Secs. 2605 and 2606. Penalty against county auditors for failing to report to state auditor.

Sec. 2607. Relating to dog tax.

Sec. 2924. Relating to the disposition of the proceeds of the sale of timber growing on state or school lands, unlawfully cut down.

Secs. 12465 and 12466. Providing for the disposition of the proceeds of the sale of unclaimed property, stolen, embezzled, or obtained under false pretenses.

Sec. 3192. Penalty against township trustees and treasurers who refuse to serve.

Sec. 3304. Penalty against township clerk for failure to make detailed statement.

Sec. 3355. Penalty against assessors for neglecting or refusing to make out and return statistics.

Sec. 3359. Penalty against any person, company, or corporation, refusing to make out and deliver a statement of facts for taxation.

Sec. 5369. Relating to the proceeds of the sale of unclaimed goods by express companies, common carriers, etc.

Sec. 9238. Penalty for avoiding toll on turnpikes or plank road.

Sec. 7611. Penalty against member of board of education who fails to perform certain duties.

Sec. 7802. Penalty against the clerk of a local board for failure to take the school enumeration.

Sec. 4772. Penalty against treasurers of school districts for failure to make annual settlement.

Sec. 7790. Penalty against county auditors and clerks of boards of education for failing to make certain reports.

Sec. 7792. Penalty against county auditors for failure to make enumeration return.

Sec. 7867. Penalty against institute committee for failure to make required report.

Secs. 5808 and 5814. Penalty for allowing certain animals to run at large.

Sec. 6321. Penalty against owners or keepers of wharf boats.

Sec. 6350. Relating to peddlers' license.

Sec. 6497. Penalty against auditors, engineers, commissioners, and probate judges, who fail to perform certain duties relating to county ditches, sinkholes, etc.

SINKING FUND.

SECTION 7613. In any school district having a bonded indebtedness, for the payment of which, with interest, no provision has been made by a special tax levy for that particular purpose, the board of education of such district annually, on or before the thirty-first day of August, shall set aside from its revenue a sum equal to not less than one-fortieth of such indebtedness together with a sum sufficient to pay the annual interest thereon. (97 v. 352 § 1.)

Board of commissioners of the sinking fund.

SECTION 7614. The board of education of every district shall provide a sinking fund for the extinguishment of all its bonded indebtedness, which fund shall be managed and controlled by a board of commissioners designated as the "board of commissioners of the sinking fund of (inserting the name of the district), which shall be composed of five electors thereof, and be appointed by the common pleas court of the county in which such district is chiefly located, except that, in city or village districts the board of commissioners of the sinking fund of the city or village may be the board of the school district. Such commissioners shall serve without compensation and give such bond as the board of education requires and approves.

Who to provide funds.

Any surety company authorized to sign such bonds may be accepted by such board of education as surety. The cost thereof, together with all necessary expenses of such commissioners shall be paid by them out of the funds under their control. (97 v. 352 § 1.)

Sinking fund commissioners have control and management of school district's sinking fund, but treasurer of board of education has custody thereof. 16 O. D. N. P., 386.

Investment of sinking fund.

SECTION 7615. The board of commissioners of the sinking fund shall invest that fund in bonds of the United States, of the state of Ohio, of any municipal corporation, county, township or school district of any state or in bonds of its own issue. All interest received from such investments shall be deposited as other funds of such sinking fund, and reinvested in like manner. For the extinguishment of any bonded indebtedness included in such fund, the board of commissioners may sell or use any of the securities or money of such fund. (98 v. 45 § 2.)

Sinking fund commissioners may issue refunding bonds.

SECTION 7616. The board of commissioners of the sinking fund may refund, extend or renew the bonded debt of the school district or any part thereof, existing April 25, 1904, by issuing the bonds of such school district for such periods, not exceeding twenty years, in such denomination, payable at such place and at a rate of interest not to exceed the rate previous to such refunding, extension or renewal. But the aggregate amount of the refunding, extending or renewing bonds so issued shall not exceed that of the bonds so refunded, extended or renewed. (97 v. 353 § 3.)

Report of sinking fund commissioners.

SECTION. 7617. The board of commissioners of the sinking fund shall make an annual report to the board of education giving a detailed statement of the sinking fund for each year ending with August thirty-first. Such report must be filed with the board of education on or before September thirtieth of each year and other reports may be required by such board of education when deemed necessary. (98 v. 45 § 4.)

Payment of bonds and interest.

SECTION 7618. The board of education shall appropriate to the use of such sinking fund any taxes levied for the payment of interest on its bonded indebtedness, together with the sum provided for in sections seventy-six hundred thirteen and seventy-six hundred and fourteen. Sums so appropriated shall be applied to no other purpose than the payment of such bonds, interest thereon and necessary expenses of such sinking fund commission. (98 v. 45 § 4.)

Bonds issued by board of education.

SECTION 7619. When a board of education issued bonds for any purpose, such issue first shall be offered for sale to the board of commissioners of the sinking fund, who may buy any or all of such bonds at par. Within five days of the time when notice is given, the board shall notify the board of education of its action upon the proposed purchase. After that time the board of education shall issue any portion not purchased by such commission according to law. (98 v. 45 § 4.)

CHAPTER 2.

SCHOOL HOUSES AND LIBRARIES.

SCHOOL HOUSES.

SECTION

- 7620. School houses.
- 7621. Display of U. S. flag.
- 7622. Regulating use of school houses.
- 7623. Directions for bidding and for letting contracts.
- 7624. Appropriation of land for school purposes.
- 7625. Submission of question of bond issue.
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- 7627. Requisites of bonds.
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LIBRARIES.

SECTION

- 7631. Establishment of public library.
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- 7633. Libraries jointly owned by two or more school districts.
- 7634. Board of trustees, appointment, term.
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- 7637. Powers of board.
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- 7640. Payments from library fund.
- 7641. Board of education may contract with library association for use of library.
- 7642. School library.
- 7643. Museum.

SCHOOL HOUSES.

SECTION 7620. The board of education of a district may build, enlarge, repair and furnish the necessary school-houses, purchase or lease sites therefor, or rights of way thereto, or rent suitable schoolrooms, provide the necessary apparatus and make all other necessary provisions for the schools under its control. It also, shall provide fuel for schools, build and keep in good repair fences inclosing such school-houses, when deemed desirable plant shade and ornamental trees on the school-grounds, and make all other provisions necessary for the convenience and prosperity of the schools within the subdistricts. (R. S. Sec. 3987.)

School-houses.

Courts of common pleas may authorize an exchange of school lots; Sec. 3707.
County commissioners may act as board of education under certain circumstances; Sec. 7610.

Penalty for destroying plants or trees; Sec. 12490.

Penalty for using school house without certificate of inspector; Sec. 12574.

A school board is not liable as such for an injury to a pupil arising from negligence in the erection and maintenance of a public school building. 30 O. S., 37.

A board of education will be enjoined in the exercise of its discretion where it attempts without any valid reason or necessity to expend the public funds for the erection of a new school house in another place in the district when the old one is suitable and satisfactory and located near the center of the district. 13 C. C., 258.

Statutes do not require advertisement for bids nor letting of contract for coal to lowest bidder. *Gosline v. Toledo (Bd. of Ed.)*, 30 O. C. C., 503 (11 N. S. 195.)

The law requires, under severe penalties to be visited on those who have control thereof, that "all school houses are to have ample means of convenient egress, and doors opening outward." For requirements as to certificates regarding the safety of such buildings, and the penalties relating to neglect, see Sections 1031-1036.

Concerning the full power of boards of education, teachers, or other citizens, to secure protection against the injury or defacement of "school houses, school yards, trees, fences, gates and bars," see General Code, section 12477, also section 12487. Any citizen may prosecute the transgressor in these cases. School houses, school furniture, and other school property belonging to the township, and not to the subdistrict, are entirely under the legal control of the township board.

It is the duty of the township board of education to exercise such supervision over the school houses in the several subdistricts, as may be necessary to prevent their being used in such a manner and for such purposes as may interfere with their use, for the legitimate and special purposes for which they were erected.

Display of
U. S. flag.

SECTION 7621. All boards of education are required to display the United States national flag upon all school-houses under their control, during all day school sessions in fair weather, which shall be displayed on the inside of the school-house on all other days. Such boards shall make all rules and necessary regulations for the care and keeping of such flags, the expense thereof to be paid out of their contingent funds. (92 v. 86 § 1.)

Regulating
use of
school-houses.

SECTION 7622. When, in the judgment of a board of education, it will be for the advantage of the children residing in any school district to hold literary societies, school exhibitions, singing schools, religious exercises, select or normal schools, the board of education shall authorize the opening of the school-houses for such purposes. The board of education of a school district in its discretion may authorize the opening of such school-houses for any other lawful purposes. But nothing herein shall authorize a board of education to rent or lease a schoolhouse when such rental or lease in any wise interferes with the public schools in such district, or for any purpose other than is authorized by this chapter. (R. S. Sec. 3987-1.)

Powers of boards of education; Sec. 4749.

Leasing a school house for a private school is a violation of the trust, and is not within the power of "disposing" of property in Sec. 3971, and a resident taxpayer may obtain injunction. 35 O. S., 143.

School houses should not be open for any purpose concerning the moral effect of which there is a difference of opinion among the residents of the district.

Directions for
bidding and
for letting
contracts.

SECTION 7623. When a board of education determines to build, repair, enlarge or furnish a school-house or school-houses, or make any improvement or repair provided for in this chapter, the cost of which will exceed in city districts, fifteen hundred dollars, and in other districts five hundred dollars, except in cases of urgent necessity, or for the security and protection of school property, it must proceed as follows:

1. For the period of four weeks, the board shall advertise for bids in some newspaper of general circulation in the district, and two such papers, if there are so many. If no newspaper has a general circulation therein, then by posting such advertisement in three public places therein. Such advertisement shall be entered in full by the clerk, on the record of the proceedings of the board.

2. The bids, duly sealed up, must be filed with clerk by twelve o'clock, noon, of the last day stated in the advertisement.

3. The bids shall be opened at the next meeting of the board, be publicly read by the clerk, and entered in full on the records of the board.

4. Each bid must contain the name of every person interested therein, and shall be accompanied by a sufficient guarantee of some disinterested person, that if the bid be accepted, a contract will be entered into, and the performance of it properly secured.

5. When both labor and materials are embraced in the work bid for, each must be separately stated in the bid, with the price thereof.

6. None but the lowest responsible bid shall be accepted. The board in its discretion may reject all the bids, or accept any bid for both labor and material for such improvement or repair, which is the lowest in the aggregate.

7. Any part of a bid which is lower than the same part of any other bid, shall be accepted, whether the residue of the bid is higher or not; and if it is higher, such residue must be rejected.

8. The contract must be between the board of education and the bidders. The board shall pay the contract price for the work, when it is completed, in cash, and may pay monthly estimates as the work progresses.

9. When two or more bids are equal, in the whole, or in any part thereof, and are lower than any others, either may be accepted, but in no case shall the work be divided between such bidders.

10. When there is reason to believe that there is collusion or combination among the bidders, or any number of them, the bids of those concerned therein shall be rejected. (R. S. Sec. 3988.)

Letting contracts for school houses when cost amounts to \$10,500 or more; see Secs. 2362, 2363, 2364.

Where the board awarded a contract to build a school house to the lowest responsible bidder for the whole work, but whose bid was defective, in that it did not state the price separately of labor and materials, and the relator's bid for labor and materials was the lowest offered, and yet was defective, in not having a sufficient guarantee, and he had notified the board that his bid was for the whole work or none; Held, that relator must show clear, legal right in himself, and cannot avail himself of defects in the other's bid; that defects may be waived where no public injury is worked thereby; that relator cannot complain that the whole work was awarded to a lower bidder, although his bid for a part was the lowest offered. 42 O. S. 374.

A bid under this section which separately states the labor and material, with the price of each, and with the provision attached that it is to be accepted as a whole, does not comply with this section. 4 N. P., 44.

The discretion of a board as to what system of apparatus it will put in cannot be controlled either by mandamus or injunction. Such bids are not competitive. 14 C. C., 15.

In order that one who has bid on public work can maintain an action of mandamus, he must show that he is the one with whom the contract should be made regardless of anybody's else rights. 14 C. C., 19.

A bid on heating and ventilating apparatus need not separately state the cost of labor and materials entering into the same. Id. 23.

When an advertisement for bids for public work is required, the board may reject them. 13 C. C., 603.

When an advertisement is not necessary, the board may make such stipulations as it desires. Id.

A board of education can not allow a contractor to amend and increase his bid on account of a mistake not appearing on the face of his bid after the bids of the other contractors have been opened and seen by him. 19 Dec. 89 (7 N. S. 590).

SECTION 7624. When it is necessary to procure or enlarge a school site, and the board of education and the owner of the proposed site or addition are unable to agree upon the sale and purchase thereof, the board shall make an accurate plat and description of the parcel of land which it desires for such purposes, and file them with the probate judge, or court of insolvency, of the proper county. Thereupon the same proceedings of appropriation shall be had which are provided for the appropriation of private property by municipal corporation. (R. S. Sec. 3990.)

Appropriation of land for school purposes.

Submission
of question
of bond issue.

SECTION 7625. When the board of education of any school district determines that for the proper accommodation of the schools of such district it is necessary to purchase a site or sites to erect a schoolhouse or houses, to complete a partially built schoolhouse, to enlarge, repair or furnish a schoolhouse, or to do any or all of such things, that the funds at its disposal or that can be raised under the provisions of sections seventy-six hundred and twenty-nine and seventy-six hundred and thirty, are not sufficient to accomplish the purpose and that a bond issue is necessary, the board shall make an estimate of the probable amount of money required for such purpose or purposes and at a general election or special election called for that purpose, submit to the electors of the district the question of the issuing of bonds for the amount so estimated. Notices of the election required herein shall be given in the manner provided by law for school elections. (R. S. Sec. 3991.)

When a proposition for a bond issue for erection or equipment of a school house has been voted down three times, further submission of the proposition may be enjoined as an abuse of discretion and authority on the part of the board. 19 Dec. 8) (7 N. S. 590).

Transfer of
surplus of
special tax or
loan.

SECTION 5654. When there is in the treasury of any city, village, county, township or school district, a surplus of the proceeds of a special tax, or of proceeds of a loan for a special purpose, which is not needed for the purpose for which the tax was levied, or the loan made, it may be transferred to the general fund by an order of the proper authorities entered on their minutes. (R. S. Sec. 2834.)

Reappropriation and transfer of surplus in established fund.

SECTION 5655. When there is in the treasury of such civil division, as provided in the next preceding section, at the annual meeting or meetings otherwise provided by law at which the annual tax levy is to be considered and adopted, a surplus not exceeding one thousand dollars in any one established fund or division of the funds, which is not needed for the purpose for which the fund was created, the money appropriated, or the tax levied, before such annual tax levy is made, it may be considered as unappropriated and may be reappropriated and transferred, by an order as is provided in such section, to another existing fund for which a tax is to be or would otherwise be levied. The sum which it would be necessary to raise by taxation for any purpose, if no such reapportionment was made, shall thereupon be reduced to the extent of the transfer thus made. This section shall not authorize such reapportionments or any transfer of funds at any other time than the meeting aforesaid to determine the tax levy nor authorize transfers at any one such meeting of over three thousand dollars in the aggregate, nor that the amount which may be lawfully raised by taxation for any purpose may be increased by such transfer. (R. S. Sec. 2834.)

Power to borrow to extend time, of debt.

SECTION 5656. The trustees of a township, the board of education of a school district and the commissioners of a county, for the purpose of extending the time of payment of any indebtedness, which from its limits of taxation such township, district or county is unable to pay at maturity, may borrow money or issue the bonds thereof, so as to change, but not increase the indebtedness in the amounts, for the length of time and at the rate of interest that said trustees, board or commissioners deem proper, not to exceed the rate of six per cent per annum, payable annually or semi-annually. (R. S. Sec. 2834a.)

Power to exchange bonds.

SECTION 5657. When it appears to the trustees of a township, board of education of a school district or commissioners of a county, to be for the best interests of such township, school

district or county to renew, refund or extend the time of payment of any bonded indebtedness which has not matured and thereby reduce the rate of interest thereon, they may issue, for that purpose, new bonds, and exchange the bonds with the holder or holders of such outstanding bonds if such holder or holders consent to make such exchange and to such reduction of interest. (R. S. Sec. 2834a.)

SECTION 5658. No indebtedness of a township, school district or county shall be funded, refunded or extended unless such indebtedness is first determined to be an existing, valid and binding obligation of such township, school district or county by a formal resolution of the trustees, board of education or commissioners thereof, respectively. Such resolution shall state the amount of the existing indebtedness to be funded, refunded or extended, the aggregate amount of bonds to be issued therefor, their number and denomination, the date of their maturity, the rate of interest they shall bear and the place of payment of principal and interest. (R. S. Sec. 2834a.)

Resolution as to such debts.

SECTION 5659. For the payment of the bonds issued under the next three preceding sections, the township trustees, board of education or county commissioners shall levy a tax, in addition to the amount otherwise authorized, each year during the period the bonds have to run sufficient in amount to pay the accruing interest and the bonds as they mature. (R. S. Sec. 2834a.)

Levy to meet payment of bonds.

SECTION 5660. The commissioners of a county, the trustees of a township and the board of education of a school district, shall not enter into any contract, agreement or obligation involving the expenditure of money, or pass any resolution or order for the appropriation or expenditure of money, unless the auditor or clerk thereof, respectively, first certifies that the money required for the payment of such obligation or appropriation is in the treasury to the credit of the fund from which it is to be drawn, or has been levied and placed on the duplicate, and in process of collection and not appropriated for any other purpose; money to be derived from lawfully authorized bonds shall, for the purpose of this section, be deemed in the treasury and in the appropriate fund. Such certificate shall be filed and forthwith recorded, and the sums so certified shall not thereafter be considered unappropriated until the county, township or board of education, is fully discharged from the contract, agreement or obligation, or as long as the order or resolution is in force. (R. S. Sec. 2834b, as amended May, 1910.)

Certificate of clerk necessary in certain cases.

Held unconstitutional for lack of uniformity of operation in so far as it applies to boards of education, and failure to comply with requirements of this section in incurring an obligation does not render an obligation void; but even if failure to comply with statutory requirements should render a note given by a board of education unenforceable at law, courts will not enjoin its collection. 8 O. C. C., N. S., 265 (Affirmed without report, 78 O. S., 443.) See also 11 O. C. C., 41 (Affirmed 53 O. S., 656.)

SECTION 5661. All contracts, agreements or obligations, and orders or resolutions entered into or passed contrary to the provisions of the next preceding section, shall be void, but such section shall not apply to the contracts authorized to be made by other provisions of law for the employment of teachers, officers, and other school employees of boards of education. (R. S. Sec. 2834b.)

Exceptions thereto.

See *McAlexander v. Haviland School District*, 19 Dec. 89 (7 N. S. 500.) When the statute requires that notice shall be given of the matter to be acted on, a failure to insert such matter will render void any act done with respect to the matter not so embraced as required, 18 Maine, 184; 12 Cushing, 291.

It cannot be too often repeated that a board of education speaks only through its records. Its acts, findings, and determinations are only known by its records. Hence, although the words of the statute may not clearly settle the question, yet it is safest to assume that this determination is to be an official determination. Purchasers of bonds are likely to scrutinize such matters closely, and they will question whether the board acquires jurisdiction to take steps for raising a tax unless it first officially "ascertains" and "determines" all the preliminary facts mentioned in the statute, and makes a record of such finding.

If question approved, board may issue such bonds.

SECTION 7626. If a majority of the electors, voting on the proposition to issue bonds, vote in favor thereof, the board thereby shall be authorized to issue bonds for the amount indicated by the vote. The issue and sale thereof shall be provided for by a resolution fixing the amount of each bond, the length of time they shall run, the rate of interest they shall bear, and the time of sale, which may be by competitive bidding at the discretion of the board. (R. S. Sec. 3992.)

Requisites of bonds.

SECTION 7627. Such bonds shall bear a rate of interest not to exceed six per cent per annum payable semi-annually, be made payable within at least forty years from the date thereof, be numbered consecutively, made payable to the bearer, bear date of the day of sale and be signed by the president and clerk of the board of education. The clerk of the board must keep a record of the number, date, amount, and the rate of interest of each bond sold, the amount received for it, the name of the person to whom sold, and the time when payable, which record shall be open to the inspection of the public at all reasonable times. Bonds so issued shall in no case be sold for less than their par value, nor bear interest until the purchase money for them has been paid. (R. S. Sec. 3992.)

Tax levy to pay bonds thus issued.

SECTION 7628. When an issue of bonds has been provided for under the next three preceding sections, the board of education, annually, shall certify to the county auditor or auditors as the case may require, a tax levy sufficient to pay such bonded indebtedness as it falls due together with accrued interest thereon. Such county auditor or auditors must place such levy on the tax duplicate. It shall be collected and paid to the board of education as other taxes are. Such tax levy shall be in addition to the maximum levy for school purposes, and must be kept in a separate fund and applied only to the payment of the bonds and interest for which it was levied. (R. S. Sec. 3993.)

Mandamus is the proper remedy to compel the board to appropriate moneys already in their treasury for that purpose, toward the payment of such bonds, and to levy such tax as may be necessary to complete such payment. 27 O. S., 96.

A board of education agreed to borrow a sum of money at an aggregate rate of interest of fifteen per cent., in manner following: For the amount so to be borrowed, bonds were to be issued bearing the authorized rate of interest, and for the excess of interest, orders on the treasury were to be issued, payable at the same time as the legal interest. The bonds were regularly issued, bearing eight per cent, interest, and sold at par, and the money was received and used as authorized. For the excess of interest, orders on the treasury were at the same time issued and delivered to the purchaser, as agreed to by the parties, but were never presented for payment, and after their maturity, he offered to return them for cancellation: Held, that this agreement to pay excess of interest is void, and, having never been executed in whole or in part, will not avoid a recovery on the bonds. 35 O. S., 519.

Certain bonds were issued by a board of education; they were afterwards redeemed before maturity, and placed in the hands of the treasurer for destruction. The treasurer failed to destroy them, but fraudulently used them as collateral security for an individual loan by an innocent third person: Held, that the board was not liable for the payment of the same. 41 O. S., 504.

SALE OF PUBLIC BONDS.

Advertisement of sale.

SECTION 2294. All bonds issued by boards of county commissioners, boards of education, or commissioners of free turnpikes, shall be sold to the highest bidder after being advertised

three times, weekly, in a newspaper having general circulation in the county where the bonds are issued, and, if, the amount of bonds to be sold exceeds twenty thousand dollars, in an additional newspaper having general circulation in the state, three times, weekly. The advertisement shall state the total amount of bonds to be sold, the amount of each bond, how long they are to run, the rate of interest to be paid thereon, whether annually or semi-annually, the law or section of law authorizing the issue, the day, hour and place in the county where they are to be sold. (80 v. 68 § 1.)

SECTION 2295. None of such bonds shall be sold for less than the face thereof, with any interest that may have accrued thereon, and the privilege shall be reserved of rejection of any or all bids. If bids are rejected the bonds shall again be advertised. All moneys from both principal and premiums on the sale of such bonds, shall be credited to the fund on account of which the bonds are issued and sold. (80 v. 68 § 1.)

How sold;
when bids re-
jected.

SECTION 7629. The board of education of any school district may issue bonds to obtain or improve public school property, and in anticipation of income from taxes, for such purposes, levied or to be levied, from time to time, as occasion requires, may issue and sell bonds, under the restrictions and bearing a rate of interest specified in sections seventy-six hundred and twenty-six and seventy-six hundred and twenty-seven. The board shall pay such bonds and the interest thereon when due, but provide that no greater amount of bonds be issued in any year than would equal the aggregate of a tax at the rate of two mills, for the year next preceding such issue. The order to issue bonds shall be made only at a regular meeting of the board and by a vote of two-thirds of its full membership, taken by yeas and nays and entered upon its journal. (R. S. Sec. 3994.)

Issue of bonds
by boards of
education.

SECTION 7630. In no case shall a board of education issue bonds under the provisions of the next preceding section in a greater amount than can be provided for and paid with the tax levy authorized by sections seventy-five hundred and ninety-one and seventy-five hundred and ninety-two, and paid within forty years after the issue on the basis of the tax valuation at the time of issue. (R. S. Sec. 3994.)

Limit of
issue.

See act referred to under Sec. 7628.

An injunction would lie against a board of education which sought to issue bonds in excess of this authority, but only as to such excess, and not to the whole. 47 Mich., 226; 43 Ia., 48.

LIBRARIES.

SECTION 7631. The board of education of any city, village, township, or special school district, by resolution, may provide for the establishment, control and maintenance, in such district, of a public library, free to all the inhabitants thereof. For that purpose, by purchase, it may acquire the necessary real property, and erect thereon a library building; acquire, by purchase or otherwise, from any other library association, its library property; receive donations and bequests of money or property for such library purposes, and maintain and support libraries now in existence and controlled by the board. (98 v. 244 § 1.)

Establishment
of public
library.

Taxation.

SECTION 7632. Such board of education annually may make a levy upon the taxable property of such school district, in addition to all other taxes allowed by law, of not to exceed one mill for a library fund, to be expended by the board, for the establishment, support and maintenance of such public library. (98 v. 244 § 1.)

Libraries jointly owned by two or more school districts.

SECTION 7633. But when a donation or bequest of money or property has been or is made to two or more school districts jointly, or jointly and severally for the purpose of establishing and maintaining such public library, and the money so donated has been or may be expended in the purchase of a site and the erection of a library building thereon, the provisions of this subdivision shall apply. In such case the board of education of each of the districts annually may levy not exceeding one mill, in addition to all other taxes allowed by law, upon the taxable property of such school districts for the establishment, support and maintenance of such public library, and the library building may be located at a convenient place in either district. (98 v. 244 § 1.)

Board of trustees, appointment, term.

SECTION 7634. The control of such building and library and the expenditure of all moneys for the purchase of books and other purposes and the administration of the library shall be vested in a board of six trustees, three to be appointed by each of the boards of education for the term of five years. They must serve without compensation, and until their successors are appointed. In case of vacancy in the board, from refusal to serve, resignation or otherwise it shall be filled by the boards of education of such district, for the unexpired term. (98 v. 244 § 1.)

State library commissioners to give advice and attention to free public library officers; see Sec. 793.

Management and control of library.

SECTION 7635. The board of education may provide for the management and control of such library by a board of trustees to be elected by it as herein provided. (R. S. Sec. 3998-2.)

Library trustees, number and eligibility of.

SECTION 7636. Such board of library trustees shall consist of seven members, who must be residents of the school district. No one shall be eligible to membership on such library board who is or has been for a year previous to his election, a member or officer of the board of education. The term of office shall be seven years, except that at the first election the terms must be such that one member retires each year. Should a vacancy occur in the board, it shall be filled by the board of education for the unexpired term. The members of the library board must serve without compensation and until their successors are elected and qualified. (R. S. Sec. 3998-2.)

Powers of board.

SECTION 7637. In its own name, such library board shall hold the title to and have the custody, and control of all libraries, branches, stations, reading rooms, of all library property, real and personal, of such school district, and of

the expenditure of all moneys collected or received from any source for library purposes for such district. It may employ a librarian and assistants, but previous to such employment their compensation shall be fixed. (R. S. Sec. 3998-2.)

SECTION 7638. By a two-thirds vote of its members such library board may purchase or lease grounds and buildings, and erect buildings for library purposes. It also may appropriate land for library purposes if the owner and the board cannot agree upon terms, and dispose of land when, in its opinion, it is no longer needed for library purposes. Conveyances made by the board shall be executed in its name by its president and secretary. It may accept any gift, devise or bequest for the benefit of such library. No member of the library board shall be interested, directly or indirectly, in any contract made by the board. It shall report annually in writing to the board of education. (R. S. Sec. 3998-2.)

May acquire land.

SECTION 7639. Such board of library trustees annually, during the month of May, shall certify to the board of education the amount of money needed for increasing, maintaining and operating the library during the ensuing year in addition to the funds available therefor from other sources. The board of education annually shall levy on each dollar of taxable property within such school district, in addition to all other levies authorized by law, such assessment not exceeding one mill, as shall be necessary to realize the sum so certified, which must be placed on the tax duplicate and collected as other taxes. (96 v. 9 § 4.)

Library fund; how provided and maintained.

SECTION 7640. The proceeds of such tax will constitute a fund to be known and designated as the library fund. Payments therefrom shall be made only upon the warrant of the library board of trustees, signed by the president and secretary thereof. (96 v. 9 § 4.)

Payments from library fund.

SECTION 7641. The board of education in any city, village, township or special school district may contract annually with any library corporation or other organization owning and maintaining a library or with any board of trustees appointed by authority of law, having the management and control of a library, for the use of such library by the residents of such district and it annually may levy a tax not exceeding one mill on the taxable property of such district to pay therefor. Such board of education shall require an annual report in writing from such library corporation or other organization or board of trustees. (As amended May 10, 1910.)

Board of education may contract with library association for use of library.

SECTION 7642. The board of education of any school district of the state, in which there is not a public library operated under public authority and free to all the residents of such district annually may appropriate not to exceed two hundred and fifty dollars from its contingent fund for the

School library.

purchase of books, other than school books, for the use and improvement of the teachers and pupils of such school district. The books so purchased shall constitute a school library, the control and management of which shall be vested in the board of education, which may receive donations and bequests of money or property therefor. (96 v. 9 § 6.)

Museum,

SECTION 7643. The board of education of any school district, or board of trustees managing and controlling a library in any school district, may found and maintain a museum in connection with and as an adjunct to such library, and for such purpose may receive bequests and donations of money or other property. (96 v. 9 § 7.)

CHAPTER 3.

SCHOOLS AND ATTENDANCE.

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SECTION 7644. Each board of education shall establish a sufficient number of elementary schools to provide for the free education of the youth of school age within the district

Elementary schools; minimum and maximum school weeks.

under its control, at such places as will be most convenient for the attendance of the largest number thereof. Every elementary day school so established shall continue not less than thirty-two nor more than forty weeks in each school year. All the elementary schools within the same school district shall be so continued. (R. S. Sec. 4007.)

SECTION 7644-1. The board of education in any city school district may establish such special elementary schools as it deems necessary for youth of school age who are afflicted with tuberculosis, and may cause all youth, within such district, so afflicted, to be excluded from the regular elementary schools, and may provide for and pay from the school funds, the expense of transportation of such youth to and from such special schools. (Passed May 10, 1910.)

Graded course
of study.

SECTION 7645. Boards of education are required to prescribe a graded course of study for all schools under their control in the branches named in section seventy-six hundred and forty-eight, subject to the approval of the state commissioner of common schools. (R. S. Sec. 4007.)

Neglect to
instruct pupils
in fire drills.

SECTION 12900. Whoever, being a principal or person in charge of a public or private school or educational institution having an average daily attendance of fifty or more pupils, wilfully neglects to instruct and train such pupils by means of drills or rapid dismissals at least once a month while such school or institution is in session, so that such pupils, in a sudden emergency may leave the school building in the shortest possible time and without confusion, or wilfully neglects to keep the doors and exits of such building unlocked during school hours, shall be fined not less than five dollars nor more than twenty dollars for each offense. (99 v. 231 §§ 1, 2.)

Same as to
dangers of
fire.

SECTION 12901. Whoever, being a teacher or instructor in a public, private or parochial school, wilfully neglects to devote less than thirty minutes in each month during which such school is in session to instructing the pupils thereof between the ages of six and fourteen years, as to dangers of fire, shall be fined not less than five dollars nor more than twenty dollars. (99 v. 231 §§ 1, 2.)

Duty of state
fire marshal.

SECTION 12902. The state fire marshal shall prepare a book for the purpose of the instruction of pupils provided in the next two preceding sections. Such book shall be conveniently arranged in a sufficient number of chapters or lessons to provide a different one thereof for each week of the maximum school year. One of such chapters or lessons shall be read each week by the teacher in such school. (99 v. 231 § 1.)

Duty of school
commissioner.

SECTION 12903. Such books shall be published at the expense of the state under the direction of the state school commissioner, who shall furnish a copy thereof to each teacher required to give such instruction. (99 v. 231 § 1.)

Exceptions
to same.

SECTION 12904. The next four preceding sections shall not apply to colleges and universities. (99 v. 232 § 1.)

Manual to
be issued.

SECTION 12905. The members of the boards of education, school directors, trustees or other body of persons having control of the schools of a township, village or city shall cause a copy of the next five preceding sections to be printed in the manual or handbook prepared for the guidance of teachers, where such manual is in use. (99 v. 232 § 3.)

SECTION 7646. Each township board of education shall establish and maintain at least one elementary school in each subdistrict under its control, unless transportation is furnished to the pupils thereof as provided by law. (R. S. Sec. 4007.)

One school to be in each subdistrict.

Change of boundaries and suspension of schools in sub-districts, conveyance of pupils; see Secs. 7730-7732.

In determining the question as to how many schools are necessary in the districts, either of townships, villages, or cities, three things should be considered: 1. Convenience of access. 2. Economy in expenditure. 3. A proper grading and classification of the pupils, in cases where grading is possible.

There is no reason why two or more school houses or two or more school rooms may not be provided in a sub-district.

SECTION 7647. The board of education in any city school district may establish and maintain a normal school within its district, and also establish and maintain such summer or vacation schools, school gardening and play grounds as to it seems desirable. (R. S. Sec 4007.)

Normal school.

SECTION 7648. An elementary school is one in which instruction and training are given in spelling, reading, writing, arithmetic, English language, English grammar and composition, geography, history of the United States, including civil government, physiology and hygiene. Nothing herein shall abridge the power of boards of education to cause instruction and training to be given in vocal music, drawing, elementary algebra, the elements of agriculture and other branches which they deem advisable for the best interests of the schools under their charge. (R. S. Sec. 4007-1.)

Elementary school defined.

SECTION 7649. A high school is one of higher grade than an elementary school, in which instruction and training are given in approved courses in the history of the United States and other countries; composition, rhetoric, English and American literature; algebra and geometry; natural science, political or mental science, ancient or modern foreign languages, or both, commercial and industrial branches, or such of the branches named as the length of its curriculum makes possible. Also such other branches of higher grade than those to be taught in the elementary schools, with such advanced studies and advanced reviews of the common branches as the board of education directs. (R. S. Sec. 4007-2.)

High school defined.

SECTION 7650. A college is a school of a higher grade than a high school, in which instruction in the high school branches is carried beyond the scope of the high school and other advanced studies are pursued, or a school in which special, technical or professional studies are pursued, and which, when legally organized, may have the right to confer degrees in agreement with the terms of the law regulating its practices or its charter; or in the absence of legislative direction, in agreement with the practices of the better institutions of learning of their respective kinds in the United States. (R. S. Sec. 4007-3.)

College defined.

High schools
classified.

SECTION 7651. The high schools of the state shall be classified into schools of the first, second, and third grades. All courses of study offered in such schools shall be in branches enumerated in section seventy-six hundred and forty-nine. (R. S. Sec. 4007-4.)

First grade.

SECTION 7652. A high school of the first grade shall be a school in which the courses offered cover a period of not less than four years, of not less than thirty-two weeks each, in which not less than sixteen courses are required for graduation. (R. S. Sec. 4007-4.)

Second grade.

SECTION 7653. A high school of the second grade shall cover a period of not less than three years, of not less than thirty-two weeks each, in which not less than twelve courses of study are required for graduation. (R. S. Sec. 4007-4.)

Third grade.

SECTION 7654. A high school of the third grade shall cover a period of not less than two years, of not less than twenty-eight weeks each, in which not less than eight courses of study are required for graduation. (R. S. Sec. 4007-4.)

Elementary
grade.

SECTION. 7655. Public schools of a less grade shall be denominated as elementary schools. A course of study shall consist of not less than four recitations a week continued throughout the school year. (R. S. Sec. 4007-4.)

Diploma to
be given to
graduates.

SECTION 7656. A diploma must be granted by the board of education to any one completing the curriculum in any high school, which diploma shall state the grade of the high school issuing it as certified by the state commissioner of common schools, be signed by the president and clerk of the board of education, the superintendent and the principal of the high school, if such there be, and shall bear the date of its issue. (R. S. Sec. 4007-5.)

Certificate as
to grade of
school.

SECTION 7657. A certificate shall also be issued to the holder of each diploma in which shall be stated the grade of the high school, the names and extent of the studies pursued and the length of time given to each study to be certified to in the same manner as set forth for a diploma. (R. S. Sec. 4007-5.)

Admission to
professional
school; ex-
ception.

SECTION 7658. A holder of a diploma from a high school of the first grade shall be entitled to a certificate of admission without examination to any college of law, medicine, dentistry, or pharmacy in this state, when the holder thereof has completed such courses in science and language as are prescribed by the legally constituted authorities regulating the entrance requirements of such college; except such institutions privately endowed which may require a higher standard for entrance examinations than herein is provided. (R. S. Sec. 4007-5.)

SECTION 7659. A holder of a diploma from any grade of high school or of a teacher's certificate from a county or city board of teacher's examiners, when he has pursued his studies under private tutorage or in an office, shall be eligible to take the examination for admission to the practice of law or to take the examination prescribed to enter a college of law, medicine, dentistry or pharmacy; except such institutions privately endowed, which may require a higher standard for entrance examinations than herein is provided. (R. S. Sec. 4007-5.)

Who eligible to take examination for admission to bar or to enter professional school; exception.

SECTION 7660. The clerk of the board of education of each district in which a high school is established and maintained shall furnish to the state commissioner of common schools definite and accurate information concerning the length of time necessary for the completion of the high school curriculum or curriculums, the courses of instruction offered therein, and such other information as the commissioner requires in relation to the high school work of the district, and in the form and manner he prescribes. Such information shall be filed when high schools are established or any changes made in curriculums. (R. S. Sec. 4007-6.)

Information as to character of high school.

SECTION 7661. Upon examination of the information thus filed, or after personal inspection of work done if he deems this advisable, or both, the state commissioner of common schools, shall determine the grade of each such high school and, under the seal of his office, certify to the clerk of the board of education his finding as to the grade of the high school maintained by such board. But he may withhold his approval of any curriculum, when it appears to him that it does not comply with legal and reasonable requirements. When it appears that any curriculum, already approved, has been so modified as to change the grade of the high school, either by advancing or reducing its grade, he shall certify his finding and all diplomas issued thereafter shall bear the grade so designated by him. (R. S. Sec. 4007-6.)

Certificate as to grade of school; withholding approval.

SECTION 7662. No school shall be considered a high school that has not furnished the information and received a certificate as provided above, nor be entitled to the privileges and exceptions provided by law for high schools. (R. S. Sec. 4007-6.)

Penalty for failure to give information.

SECTION 7663. A board of education may establish one or more high schools, whenever it deems the establishment of such school or schools proper or necessary for the convenience or progress of the pupils attending them, or for the conduct and welfare of the educational interests of the district. (R. S. Sec. 4009.)

Any board of education may establish high school.

This section fully authorizes boards of education to establish high schools without submitting the question to a vote of the electors of the district, unless it should be found necessary to levy a tax in excess of the maximum allowed by law and issue bonds; in which case an election is required; see Sec. 7625.

Discontin-
uance thereof.

SECTION 7664. Such school or schools, when established, shall not be discontinued under three years from the time of their establishment, except by a vote of three-fourths of all the members of the board of education of the district, at a regular meeting. (R. S. Sec. 4009.)

A township high school does not pass to a village incorporated out of the territory including it by reason of a general saving clause in the act of 1873. 41 O. S., 680.

Change of territory organizing a separate school district does not entitle the new district to seize on property within it that had been set apart by the township board for a higher school than a primary, although this would be within the letter of R. S., Sec. 3972, which relates to the subject. 46 O. S., 595.

Management
and control
of township
high schools.

SECTION 7665. When a township board of education establishes and maintains a high school or high schools within the district under its control, it shall have the the management and control thereof, and may employ and dismiss teachers, and give certificates of such employment, and for services rendered, directed to the township clerk. (R. S. Sec. 4009-1.)

School-
houses.

SECTION 7666. Such board of education shall build, repair, add to and furnish the necessary schoolhouses, purchase or lease sites therefor, or rent suitable rooms, and make all other necessary provisions relative to such schools as may be deemed proper. (R. S. Sec. 4009-1.)

Admission
of pupils.

SECTION 7667. Such board of education may regulate and control the admission of pupils from the elementary schools under its charge to such high school or high schools, according to age and attainments, may admit adults over twenty-one years of age, and pupils from other districts on such terms and under such rules as it adopts. It shall maintain such high school or high schools not less than twenty-eight nor more than forty weeks in any school year. (R. S. Sec. 4009-1.)

Estimate of
funds needed.

SECTION 7668. In townships where a high school or high schools are, or may be established, by the township board of education, it annually shall determine by estimate, as near as practicable, the entire amount of money necessary to be expended in the township for school and schoolhouse purposes, including the paying of teachers in such schools, the prolonging of the terms of the several elementary schools of the township after the state funds have been exhausted, the erecting, repairing and furnishing of school houses, and any other school purposes not exceeding in any one year ten mills on the dollar of the taxable property of the township, which amount shall be certified in writing to the county auditor, by such township board, on or before the first Monday in June of each year. (R. S. Sec. 4009-2.)

Union of dis-
tricts for
high school
purposes.

SECTION 7669. The boards of education of two or more adjoining township school districts, or of a township district and of a village or special school district situated partially or wholly within the township, or of any two or more of such school districts, by a majority vote of the full membership of each board, may unite such districts for high

school purposes. Each board also may submit the question of levying a tax on the property in their respective districts, for the purpose of purchasing a site and erecting a building, and issue bonds, as is provided by law in case of erecting or repairing school houses; but such question of tax levy must carry in each district before it shall become operative in either. If such boards have sufficient money in the treasury to purchase a site and erect such building, or if there is a suitable building in either district owned by the board of education that can be used for a high school building it will not be necessary to submit the proposition to vote, and the boards may appropriate money from their funds for this purpose. (99 v. 462 § 1.)

SECTION 7670. Any high school so established shall be under the management of a high school committee, consisting of two members of each of the boards creating such joint district, elected by a majority vote of such boards. Their membership of such committee shall be for the same term as their terms on the boards which they respectively represent. Such high school shall be free to all youth of school age within each district, subject to the rules and regulations adopted by the high school committee, in regard to the qualifications in scholarship requisite for admission, such rules and regulations to be of uniform operation throughout each district. (99 v. 462 § 1.)

High school committee.

SECTION 7671. The funds for the maintenance and support of such high school shall be provided by appropriations from the tuition or contingent funds, or both, of each district, in proportion to the total valuation of property in the respective districts, which must be placed in a separate fund in the treasury of the board of education of the district in which the school house is located, and paid out by action of the high school committee for the maintenance of the school. (99 v. 462 § 1.)

Funds, how provided.

Township board of education may be compelled under this section by mandamus to appropriate its proportionate share of expense for the maintenance of such school from the tuition or contingent fund provided by such section; but it can not be compelled to make the appropriation from a levy made for the subsequent year unless it can be done without impairing the general school fund or the efficiency of the common schools. 30 O. C. C. 657.

SECTION 7672. Boards of education exercising control for the purpose of taxation over territory within a township or joint township high school district may levy upon all the taxable property within such territory, not exceeding five mills on one dollar in any one year, in addition to all other lawful levies for the maintenance of any township or joint township high school to which such territory belongs. All funds derived from levies so made shall be kept separate and be paid out for the maintenance of the school for which they were made. (99 v. 462 § 1.)

Tax levy, five mills.

SECTION 7673. The school board of any village school district in which is located a university or college, organized under the laws of this state, as an institution of learning

Tax levy for support of municipal university.

not for profit, and under the management of a board of trustees, may levy a tax not exceeding two mills annually, in addition to all lawful taxes for all other purposes, upon all taxable property within such district for the support of such university or college. (99 v. 519 § 1.)

Admission of
high school
graduates.

SECTION 7674. In the event such levy is made, all holders of a high school diploma obtained from such village district high school shall have the right to attend such university or college for the period of two years, free of tuition. (99 v. 520 § 2.)

Disposition
of funds.

SECTION 7675. The funds arising from such tax levy shall be turned over to the board of trustees of such university or college by the county treasurer to be expended by them in the conduct of the university or college and for no other purpose. (99 v. 520 § 3.)

Schools at
children's
homes, or-
phans' asy-
lums and in-
firmaries.

SECTION 7676. The board of any district in which a children's home or orphans' asylum is established by law, or in which a county infirmary is established, when requested by the board of trustees of such children's home, orphans' asylum or the directors of such infirmary, shall establish a separate school in such home, asylum or infirmary, so as to afford to the children therein, as far as practicable, the advantages and privileges of a common school education. Such schools at infirmaries must be continued in operation each year until the share of all the school funds of the district belonging to such children, on the basis of the enumeration, is expended, and at such homes and asylums not less than forty-four weeks. If the distributive share of school funds to which the school at such a home or asylum is entitled by the enumeration of children in the institution is not sufficient to continue the schools for that length of time, the deficiency shall be paid out of the funds of the institution. (R. S. Sec. 4010.)

Management
of such
schools.

SECTION 7677. All schools so established in any such home, asylum or infirmary, shall be under the control and management of the respective boards of trustees or directors of such institution, which boards in such control and management so far as practicable, shall be subject to the same laws that boards of education and other school officers are who have charge of the common schools of such district. (R. S. Sec. 4010.)

COSTS.

SECTION 7678. In the establishment of such schools the commissioners of the county in which such children's home, orphans' asylum or county infirmary is established, shall provide the necessary school room or rooms, furniture, fuel, apparatus and books, the cost of which for such schools must be paid out of the funds provided for such institution. The board of education shall incur no expense in supporting such schools. (R. S. Sec. 4010.)

For acts relating to children's homes, see Secs. 3077-3080.
See also sections 4083-4088.

SECTION 7679. In any township, special, village, or city district, or part thereof, parents or guardians of youth of school age may petition the board of education to organize an evening school. The petition must contain the names of not less than twenty-five youth of school age who will attend such school, and who for reasons satisfactory to the board are prevented from attending day school. Upon receiving such petition the board of education shall furnish a suitable room for the evening school and employ a competent person who holds a regularly issued teacher's certificate, to teach it. Such board may discontinue any such evening school, when the average evening attendance for any month fails below twelve. (R. S. Sec. 4012.)

Evening
schools.

SECTION 7680. Any person more than twenty-one years old may be permitted to attend evening school upon such terms and upon payment of such tuition as the board of education prescribes. (R. S. Sec. 4012a.)

Attendance
by person
more than
twenty-one
years old.

SECTION 7681. The schools of each district shall be free to all youth between six and twenty-one years of age, who are children, wards, or apprentices of actual residents of the district, including children of proper age who are inmates of a county or district children's home located in such a school district, at the discretion of its board of education. But all youth of school age living apart from their parents or guardians and who work to support themselves by their own labor, shall be entitled to attend school free in the district in which they are employed. (R. S. Sec. 4013.)

Who may be
admitted to
school free.

Attending school in other districts if nearer; see sections 7734, 7735.

The children inmates of the German Protestant Asylum of Cincinnati, are not "children, wards, or apprentices of actual residents" in the school district within which said asylum is located, and therefore, under the act of Feb. 21, 1849, are not entitled to gratuitous admission to the privileges of the public schools of said district. 10 O. S., 448.

No regulation can be made under this section that does not apply to all children, irrespective of race or color. 45 O. S., 555.

Under this section persons under twenty-one years of age, though married, are entitled to all the privileges of the schools of the district in which they reside, notwithstanding they have not been enumerated in the school census, and in consequence can draw no part of the state school fund.

That portion of the above section relating to children living apart from their parents or guardians, who support themselves by their own labor, does not apply where a child moves into a district in which his parents do not live, with the express purpose of attending school, and incidentally works for his board and lodging; in such cases tuition can be charged.

SECTION 12906. Whoever, being a pupil in the public schools, organizes, joins or belongs to a fraternity, sorority or other like society composed of or made up of pupils of the public schools, shall be fined not less than ten dollars nor more than twenty-five dollars for each offense. (99 v. 253 §§ 1, 3.)

Pupil joining
fraternity;
penalty.

SECTION 12907. Whoever, being a teacher, principal or superintendent, having knowledge or reason to believe that a fraternity, sorority or like society composed or made up of pupils of the public schools, is being organized or maintained in the public schools or that a pupil attending such school is organizing, or is a member of, such fraternity, sorority or like society, fails forthwith to advise the president or secretary of the board of education in charge of such schools thereof, shall be fined not less than ten dollars nor more than twenty-five dollars for each offense. (99 v. 253 §§ 2, 3.)

Teacher, principal or superintendent failing to give notice of fraternity in schools.

Board of education to investigate charges of existence of fraternity; notice to members thereof.

SECTION 12908. Whoever, being a board of education in charge of public schools, upon being advised in accordance with the provisions of the next preceding section, within thirty days thereafter, fails to investigate such charges after not less than ten days' written notice to such pupils, their parents or guardians, or, being the secretary of such board of education, when such board has found the charges mentioned in the next preceding section to be correct and true, fails forthwith to notify in writing the pupils organizing, joining or belonging to such fraternity, sorority or like society, to disband and discontinue it and to withdraw therefrom within five days from the receipt of such notice, shall be fined not less than ten dollars nor more than twenty-five dollars for each offense. (99 v. 253 §§ 2, 3.)

Suspension of pupils.

SECTION 12909. Whoever, being a pupil in the public schools, organizing, joining or belonging to a fraternity, sorority or like society composed or made up of pupils of the public schools, fails to obey the notice provided for in the next preceding section, shall be forthwith suspended from the public schools by the superintendent or principal in charge thereof in cities or districts having such superintendents or principals, or the clerk of the board of education in villages, special and township districts not having such superintendent or principal, until such pupil shall comply with the order of such board of education. (99 v. 253 § 2.)

Non-resident pupils.

SECTION 7682. Each board of education may admit other persons upon such terms or upon the payment of such tuition as it prescribes. (R. S. Sec. 4013.)

Crediting of school tax on tuition.

SECTION 7683. When a youth between the age of six and twenty-one years or his parent owns property in a school district in which he does not reside, and he attends the schools of such district, the amount of school tax paid on such property shall be credited on his tuition. (R. S. Sec. 4013.)

Assignment of pupils.

SECTION 7684. Boards of education may make such an assignment of the youth of their respective districts to the schools established by them as in their opinion best will promote the interests of education in their districts. (R. S. Sec. 4013.)

Mandamus will not lie to compel board of education to promote a pupil to a higher grade than that for which he was successfully examined, notwithstanding such pupil is fitted to enter such grade, such question being discretionary with the board. *Sycamore (Bd. of Ed.) v. Wickham*, 83 O. S., 133.

Suspension and expulsion of pupils.

SECTION 7685. No pupil shall be suspended from school by a superintendent or teacher except for such time as is necessary to convene the board of education, nor shall one be expelled except by a vote of two-thirds of such board, and after the parent or guardian of the offending pupil has been notified of the proposed expulsion, and permitted to be heard against it. No pupil shall be suspended or expelled from any school beyond the current term thereof. (R. S. Sec. 4014.)

The father of a child entitled to the benefits of the public school of the sub-district of his residence may maintain an action against the teacher of the school, and the local directors of the sub-district, for damages for wrongfully expelling the child from school. 21 O. S., 666.

In many cases of incorrigibility, proceedings can be instituted against the offender as provided by section 7774, as a juvenile disorderly person (section 7768), instead of expulsion by the board, as it is in the interest of the commonwealth to keep the child in school, if possible.

The parent has no right to interfere with the order or progress of the school by detaining his child at home, or by sending him at times that prove an annoyance or hindrance to others. 31 Iowa, 538.

The right to attend school is not absolute, but conditional on compliance with the rules. 48 Vt., 473.

SECTION 7686. The board of each district may make and enforce such rules and regulations to secure the vaccination of, and to prevent the spread of small-pox among the pupils attending or eligible to attend the schools of the district, as in its opinion the safety and interest of the public require. Boards of health, councils of municipal corporations, and the trustees of townships, on application of the board of education of the district, at the public expense, without delay, shall provide the means of vaccination to such pupils as are not provided therewith by their parents or guardians. (R. S. Sec. 3986.)

Vaccination
of pupils.

Board of education may enforce reasonable rules as to vaccination. State v. Barberton (Bd. of Ed.), 29 O. C. C., 375; (7 N. S., 668.)
Affirmed 76 O. S., 297.

SECTION 7687. Teachers in the public schools may dismiss their schools, without forfeiture of pay, on the first day of January, the twenty-second day of February, the thirtieth day of May, the fourth day of July, the first Monday in September, the twenty-fifth day of December, and on any day set apart by proclamation of the president of the United States, or the governor of this state as a day of fast, thanksgiving or mourning. (R. S. Sec. 4015.)

Dismissal of
school on
holidays.

A teacher is not bound by the provisions of a contract which are in contravention of law.

He may dismiss his school on legal holidays without forfeiture of pay, notwithstanding the clause in his contract providing salary by the day.

Boards of education cannot compel teachers to make up for time lost on the above-mentioned days.

Hiring teachers by the day does not affect their rights under this section.

It is held in Michigan that "school management should always conform to those decent usages which recognize the propriety of admitting to hold exercises on recognized holidays. All contracts for teaching during periods mentioned must be construed of necessity as subject to such days, and there can be no penalty laid upon such observances, in the way of forfeitures or reductions of wages." 39 Mich., 484.

SECTION 7688. Not later than April the governor of the state shall appoint and set apart one day in the spring season of each year, as a day on which those in charge of the public schools and institutions of learning under state control, or state patronage, for at least two hours must give information to the pupils and students concerning the value and interest of forests, the duty of the public to protect the birds thereof, and also for planting forest trees. Such day shall be known as Arbor day. (95 v. 38 § 1.)

Arbor day.

SECTION 7689. The school year shall begin on the first day of September of each year, and close on the thirty-first day of August of the succeeding year. A school week shall consist of five days, and a school month of four school weeks. (R. S. Sec. 4016.)

School year,
month, and
week.

Boards of education cannot compel pupils to attend school, or teachers to teach the same, more than five days in any one week, and teachers cannot make up for lost time by teaching six days in a week without express authority from the board of education.

Teachers have no right, without express authority of the board of education, to make up lost time by teaching on Saturday or on a holiday. The custom is so well established of keeping the schools in session the five working days of each week exclusive of Saturday, and of dismissing on the holidays named, that to change this custom would manifestly require action by the board. As the law does not prescribe the days of the week to be taught, the board may, under section 4750, authorize the intermission of school on Monday or any other day most convenient to the inhabitants. In a few districts in Ohio, there is no session on Monday.

Control of
schools vested
in boards.

SECTION 7690. Each board of education shall have the management and control of all of the public schools of whatever name or character in the district. It may appoint a superintendent of the public schools, truant officers, and janitors and fix their salaries. If deemed essential for the best interests of the schools of the district, under proper rules and regulations, the board may appoint a superintendent of buildings, and such other employes as it deems necessary, and fix their salaries. Each board shall fix the salaries of all teachers, which may be increased, but not diminished during the term for which the appointment is made. Teachers must be paid for all time lost when the schools in which they are employed are closed owing to an epidemic or other public calamity. (R. S. Sec. 4017.)

Stipulation that teacher would not accept compensation for attending teachers' institute held void. *Elizabeth Tp. (Bd. of Ed.) v. Burton*, 30 O. C. C., 411 (11 N. S. 103.)

See ex rel. v. Wickham under 7684.

SECTION 7690-1. All employes in each city school district shall be divided into two classes to be known as the classified and unclassified service. The unclassified service shall include the position of officers elected by the people or appointed to fill vacancies in such offices; persons who by law are to serve without remuneration; persons who are required by law to have a teacher's certificate; the superintendent of instruction, the director of schools and the clerk of the board of education, school physicians and nurses, secretaries, chief deputies in the offices of the director and clerk of the board of education, the chief truant officer, all unskilled labor when but temporarily employed, and such other appointees as the civil service commission may by rule determine. The classified service shall comprise all offices and positions not included in the unclassified service. (Passed April 26, 1910.)

SECTION 7690-2. The civil service commissioners of each city shall be and are hereby constituted the civil service commissioners of the board of education in each city school district and the board of education of such district shall provide for such clerical force, examiners, and the necessary expenses of such commissioners as may be necessary for the purpose of carrying out the provisions of this act.

The civil service commissioners shall keep separate registers and records of all positions and appointments in the classified service of the board of education. All applicants for admission into the classified service of the board of education shall be subject to examination, which shall be competitive, public and open to all residents of the city school district, with such limitations as to age, sex, residence, health, habits and moral character as said commission may prescribe. The commission shall prepare rules and regulations adapted to carry out the purposes of this act, which rules and regulations shall provide for the grading of positions similar in character, so as to permit the filling of

positions in the highest grades as far as practicable by promotions; and shall provide for public examinations to ascertain the fitness of all applicants for appointments in the classified service, and the result of such examinations shall be accessible to all persons. Such applicants shall take rank upon the register of the commission as candidates in the order of their relative standing without reference to priority of examination, and grades and standings so established shall remain the grades for a period of six (6) months or longer, if the commission so determine. (Passed April 26, 1910.)

SECTION 7690-3. Whenever an appointment is to be made to any position in the classified service, the board or officer shall notify the commission of any vacancy to be filled. The commission shall thereupon certify to such board or officer the three candidates the highest in the respective lists as shown by the result of such examination, and such board or officer shall thereupon appoint one of the three so certified. Any candidate whose name shall have been certified three times without appointment may be dropped from the register by the commission. (Passed April 26, 1910.)

SECTION 7690-4. It shall be the duty of each appointing officer or board to report to the civil service commission forthwith upon such appointment or employment the name of such appointee or employe, the title, the character of his employment, the date of the commencement of service, the salary or compensation thereof, and such other information as the commission may require in order to keep the roster herein provided; and it shall be the duty of said commission to prepare, conduct and keep in its office a complete roster of all persons in the classified service of the board of education, which roster shall be open to inspection at all reasonable hours. It shall show in reference to each of said persons his name, the date of his appointment to or employment in such service, his salary or compensation, the title of the position or office he holds, or nature of the duties thereof; and, in case of removal or resignation, the date of the termination of such service. (Passed April 26, 1910.)

SECTION 7690-5. No officer or employe within the classified service who shall have been appointed under the provisions of this act or who shall have been continuously in the employment of the board of education for a period of three (3) years shall be removed, reduced in rank or discharged except for some cause relating to his moral character or his suitability and capacity to perform the duties of his position, though he may be suspended from duty without pay for a period of not exceeding thirty (30) days pending the investigation of charges against him. Such cause shall be determined by the removing authority and reported in writing with a specific statement of the reasons therefor to the commission, but shall not be made public without the consent of the person discharged. Before such removal,

reduction or discharge shall become effective the removing authority shall give such person a reasonable opportunity to know the charges against him and to be heard in his own behalf, and if such charges be not sustained by the commission he shall be reinstated in his position. (Passed April 26, 1910.)

SECTION 7690-6. Nothing herein contained shall prevent the board of education of each city school district from defining the duties of its various employes, and prescribing the rules and regulations under which they shall serve nor from exercising proper supervision over them. Nor shall the board of education of such city school district be precluded from securing labor or assistance for short periods within its discretion in cases of emergency. (Passed April 26, 1910.)

Terms.

SECTION 7691. No person shall be appointed as a teacher for a term longer than four school years, nor for less than one year, except to fill an unexpired term, the term to begin within four months of the date of the appointment. In making appointments teachers in the actual employ of the board shall be considered before new teachers are chosen in their stead. (R. S. Sec. 4017.)

If a board of education require its committee on teachers or, in city districts, the superintendent, to report the teachers for re-appointment and the newly appointed teachers on separate lists, the adoption of the report or the confirmation of the appointments by the superintendent is sufficient consideration as required by law.

The restriction that no contract is valid unless money is in treasury and set apart, does not apply to contracts authorized by the provisions of law to be made for employing teachers and other school employes; see Sec. 5660.

Vote necessary to elect superintendent and teachers; Sec. 4752.

The passage of a resolution to employ a certain teacher, notice sent to him, and the party accepting and entering upon his duties, constitutes a valid contract between the school board and the teacher. 12 C. C., 249.

Illegal provisions in a contract to employ a teacher, which are separate from the legal part and are not performed, do not invalidate his right to recover his salary, as where he was employed at a certain salary, with a provision that if he could not do the work alone he should have power to employ assistance at his own expense, but he performed the service without an assistant. 29 O. S., 161.

A committee on teachers appointed by the board may make recommendations to the board, but no teacher, or other employee, can be legally elected except at a meeting of the board of education, and by a majority vote of the entire board and after the manner directed in section 4752. If the meeting is a special one, each member must have been notified in accordance with the provisions of section 4751.

The dismissal of a teacher or other employee is business and must be transacted at a regular or special meeting, and reasons therefor must be spread upon the minutes.

If a teacher is employed for a definite time, and, during the period of his employment, the district officers close the schools on account of the prevalence of contagious diseases, and keep them closed for a time, and the teacher continues ready to perform his contract, he is entitled to full wages during such period. The act of God is not an excuse for non-performance of a contract, unless it renders performance impossible; if it merely makes it difficult and inexpedient, it is not sufficient. Although under such circumstances it is eminently prudent to dismiss school, yet this affords no reason why the misfortune of the district should be visited upon the teacher. Dewey v. Union School District of Alpena, 43 Mich., 480.

A person who engages to teach for a definite term, and leaves the school without just cause, cannot sustain an action for services already rendered. 29 Vt., 219.

It has been held in New York that absence of a teacher for a single day without consent of the trustees annuls the contract. New York Code of Instruction, pp. 705, 723, 731.

But a teacher abandoning his school because not sustained by the trustees in the enforcement of reasonable rules is entitled to wages for the time taught. 7 Vermont, 452; 55 Mo., 149.

The discharge of a janitor's duties is no part of a teacher's work; and, in the absence of a contract to perform such duties, he is under no legal

obligation to do so, no difference what may have been the custom in the district, nor how long acquiesced in.

The teacher cannot *compel* pupils to do any janitorial work, such as building fires or sweeping school houses. 97 Ill., 375.

Many city boards of education have as one of their standing rules that all of their employees shall hold their positions at the discretion of the board. This condition in a contract with employees hired for a specified time is null and void. The statute names the causes for which an appointee may be dismissed, and that appointee can be dismissed for no other. A rule of a board of education cannot override a state law.

Instructor or teacher having sexual intercourse with female pupil; see Sec. 13030. For definition of "term" as used in section 13030, see *Esley v. State*, 10 O. C. C., N. S., 169.

Boards of education are authorized to adopt and enforce necessary rules and regulations for the government of schools under their management and control. *Sewall v. Board of Education*, 29 O. S., 89; see Sec. 4750.

Where instruction in rhetoric is given in any grade or department of the school, and one of the rules adopted by the board for the government of the pupils therein provides that if any pupil should fail to be prepared with a rhetorical exercise at the time appointed therefor, he or she should, unless excused on account of sickness or other reasonable cause, be immediately suspended from such department, it was held that such a rule was reasonable. 29 O. S., 89.

SECTION 7692. Any board of education in a city school district may provide for the medical inspection of pupils attending the public schools. For that purpose it can employ competent physicians, nurses, and provide for and pay all expenses incident thereto from the public school funds, or by agreement with the board of health or other board or officer performing the functions of a board of health for such city. It may provide for medical and sanitary supervision and inspection of the schools which are under the control of such board of education and of the pupils attending such schools, by a competent physician selected by the parent or guardian of the child, but on failure of the parent or guardian, then by the district physicians and other employes to be appointed by such board of health. (R. S. Sec. 4018a.)

Medical inspection.

SECTION 7693. A board of education in a city school district making such agreement may provide and pay compensation to the employes of the board of health in addition to that provided by the city. (R. S. Sec. 4018a.)

Compensation.

SECTION 7694. A board of education in a city school district, may elect a director of schools, who shall serve as such for the term of two years, unless earlier removed. A vacancy in this office shall be filled for the unexpired term thereof. (R. S. Sec. 4017.)

Director of schools.

SECTION 7695. As director of schools, he shall execute for the board of education, in the name of the school district, its contracts and obligations, except that bonds issued must be signed by the president of the board, and attested by the clerk. He shall see that all contracts made by or with such board are fully and faithfully performed. Except teachers, assistant teachers, supervisors, principals, superintendent of instruction, clerk of the board of education, such director shall have the appointment subject to the approval and confirmation of the board of all employes, and may discharge them. He shall have the care and custody of all property of the school district, real and personal, except moneys, oversee the construction of buildings, in the

Powers.

process of erection, and the repairs thereof; and advertise for bids and purchase all supplies and equipments authorized by the board. (R. S. Sec. 4017.)

Duties.

SECTION 7696. Such director shall report to the board monthly, and oftener if required, as to all matters under his supervision, and report to the board a statement of its accounts, exhibiting the revenues, receipts, disbursements, assets and liabilities, the sources from which the revenues and funds are derived, and in what manner they have been disbursed. He shall keep accurate account of taxes levied for school purposes, and of all moneys due to, received and disbursed by the board; also, of all assets and liabilities and all appropriations made by it, and receive and preserve all vouchers for payments and disbursements made to or by the board. He must issue all warrants for the payment of money from the school fund, but no warrant shall be issued for the payment of any claim until it has been approved by the board. The pay roll for teachers, assistant teachers and supervisors must be countersigned by the superintendent of instruction. Such director shall attend all meetings of the board, and perform all of its executive functions not heretofore excepted in defining the duties of the director of schools. He must devote such portion of his time to the duties of his office as is required by the board of education at or before his election, and give a bond for the faithful discharge of his duties as director of schools, in such sum as the board determines, his sureties to be approved by it, which bond shall be deposited with the president of the board within ten days after his appointment. (R. S. Sec. 4017.)

Compensation.

SECTION 7697. Such director shall receive such compensation, not exceeding five thousand dollars per annum, as is fixed by the board before his election, which shall not be changed during his term of office. (R. S. Sec. 4017.)

May suspend or remove director.

SECTION 7698. By a two-thirds vote for cause, the board of education at any time may suspend or remove the director of schools, but such suspension or removal shall not be made unless the charges are preferred in writing, and an opportunity afforded to bring all offered pertinent testimony in as a defense, which testimony shall be received and considered by the board and made a part of its records. (R. S. Sec. 4017.)

Appointees; clerk's duty.

SECTION 7699. Upon the appointment of any person to any position under the control of the board of education, the clerk promptly must notify such person verbally or in writing of his appointment, the conditions thereof, and request and secure from him within a reasonable time to be determined by the board, his acceptance or rejection of such appointment. An acceptance of it within the time thus determined shall constitute a contract binding both parties thereto until such time as it may be dissolved, expires, or the appointee be dismissed for cause. (R. S. Sec. 4017.)

The statutes regulating the hiring of teachers, must be strictly followed. *Beck v. Rocky River Sch. Dist.* (Bd. of Ed.), 29 O. C. C., 717 (9)

SECTION 7700. All resignations or requests for release from contract by teachers, superintendents, or employes, must be promptly considered by the board, but no resignation or release shall become effective except by its consent. (R. S. Sec. 4017.)

Resignations.

SECTION 7701. Each board may dismiss any appointee or teacher for inefficiency, neglect of duty, immorality, or improper conduct. No teacher shall be dismissed by any board unless the charges are first reduced to writing and an opportunity be given for defense before the board, or a committee thereof, and a majority of the full membership of the board vote upon roll call in favor of such dismissal. (R. S. Sec. 4017.)

Dismissals.

SECTION 7702. The board of education in each city school district shall appoint a suitable person to act as superintendent of the public schools of the district, for a term not longer than five school years, and to begin within four months of such appointment. (R. S. Sec. 4017a.)

Superintendent of city school district.

SECTION 7703. Upon his acceptance of the appointment, such superintendent, subject to the approval and confirmation of the board, may appoint all the teachers, and for cause suspend any person thus appointed until the board or a committee thereof considers such suspension, but no one shall be dismissed by the board except as provided in section seventy-seven hundred and one. But any city board of education, upon a three-fourths vote of its full membership, may re-employ any teacher whom the superintendent refuses to appoint. Such superintendent shall visit the schools under his charge, direct and assist teachers in the performance of their duties, classify and control the promotion of pupils, and perform such other duties as the board determines. He must report to the board annually, and oftener if required, as to all matters under his supervision, and may be required by it to attend any and all of its meetings. He may take part in its deliberations but shall not vote. (R. S. Sec. 4017a.)

Powers and duties.

SECTION 7704. On the third Monday of every January the clerk of the board of education of a city school district shall certify to the board of education of which he is clerk, the number of pupils enrolled in the public schools of that district, whereupon the board of such city school district may by resolution set aside from the contingent fund a sum not to exceed five cents for each child so enrolled, such sum of money to be known as the "service fund" to be used only in paying the expenses of such members actually incurred in the performance of their duties; such payments to be made only on statement of the several members furnished at the last meeting held in each month. (99 v. 322 § 1.)

"Service fund."

SECTION 7705. The board of education of each village, township and special school district may appoint a suitable person to act as superintendent, and to employ the teachers of the public schools of the district, for a term not longer

Superintendent of village, township, or special school district.

than three school years, to begin within four months of the date of appointment. But nothing herein shall prevent two or more districts uniting and appointing the same person as superintendent. (R. S. Sec. 4017a.)

Powers and duties.

SECTION 7706. Upon his acceptance of the appointment, such superintendent may visit the schools under his charge, direct and assist teachers in the performance of their duties, classify and control the promotion of pupils, and perform such other duties as the board determines. He shall report to the board of education annually, and oftener if required, as to all matters under his supervision, and may be required by it to attend any and all of its meetings. He may take part in its deliberations, but shall not vote. But any board may permit or require the superintendent to devote a portion of his time to teaching, subject to its rules and regulations. (R. S. Sec. 4017a.)

General duties of teachers.

SECTION 7707. Teachers must exercise reasonable care in regard to school property, apparatus, and supplies intrusted to their keeping. They shall strive to guard the health any physical welfare of the pupils in their schools, give sufficient instruction in the studies pursued, and endeavor to maintain good discipline over all the pupils under their charge. But no teacher shall be required by any board to do the janitor work of any school room or building, except as mutually agreed by special contract, and for compensation in addition to that received by him for his services as teacher. (R. S. Sec. 4018.)

A teacher may decline to perform janitor service until the board makes a special contract with him for such service for compensation in addition to his salary as teacher.

A teacher required by a board of education to do janitor work without having made a special contract so to do, and without extra compensation therefor, may recover the reasonable value of such services from such board. 16 O. D. N. P., 414.

Teachers dismissed for insufficient cause.

SECTION 7708. If the board of education of any district dismisses a teacher for any frivolous or insufficient reason, the teacher may bring suit against such district. If, on trial of the cause a judgment be obtained against the district, the board thereof shall direct the clerk to issue an order upon the treasurer for the sum so found due to the person entitled thereto, to pay it out of any money in his hands belonging to the district, applicable to the payment of teachers. In such suits process may be served on the clerk of the district, and service upon him shall be sufficient. (R. S. Sec. 4019.)

Since possession of a certificate is *prima facie* evidence of competency and good character the burden of sustaining a charge against the teacher for inefficiency, neglect of duty, immorality or improper conduct is thrown upon the person or persons preferring such charges.

Filing and preservation of copies and prices of school-books.

SECTION 7709. Any publisher or publishers of school-books in the United States desiring to offer school-books for use by pupils in the common schools of Ohio as hereinafter provided, before such books may be lawfully adopted and purchased by any school board, must file in the office of the state commissioner of common schools, a copy of each book proposed to be so offered, together with the published

list wholesale price thereof. No revised edition of any such book shall be used in common schools until a copy of such edition has been filed in the office of the commissioner together with the published list wholesale price thereof. The commissioner must carefully preserve in his office all such copies of books and the prices thereof. (92 v. 282 § 1.)

SECTION 7710. When and so often as any book and the price thereof is filed in the commissioner's office as provided in the next preceding section, a commission consisting of the governor, secretary of state and state commissioner of common schools, immediately shall fix the maximum price at which such books may be sold to or purchased by boards of education, as hereinafter provided, which price must not exceed seventy-five per cent of the published list wholesale price thereof. The state commissioner of common schools immediately shall notify the publisher of such book so filed, of the maximum price fixed. If the publisher so notified, notifies the commissioner in writing that he accepts the price fixed, and agrees in writing to furnish such book during a period of five years at that price, such written acceptance and agreement shall entitle the publisher to offer the book so filed for sale to such boards of education. (92 v. 282 § 2.)

Maximum
price; notification of publisher.

SECTION 7711. Such commissioner, during the first half of the month of June, in each year, must furnish to each board of education the names and addresses of all publishers who during the year ending on the first day of the month of June in each year, agreed in writing to furnish their publications upon the terms above provided. A board of education shall not adopt or cause to be used in the common schools any book whose publisher has not complied, as to such book, with the provisions of law relating thereto. (92 v. 282 § 3.)

Notices to boards.

SECTION 7712. If a publisher who agreed in writing to furnish books as above provided, fails or refuses to furnish such books adopted as herein provided to any board of education or its authorized agent upon the terms herein provided, such board at once must notify such commission of such failure or refusal, and it at once shall cause an investigation of such charge to be made. If it is found to be true the commission at once shall notify such publisher and each board of education in the state that such book shall not thereafter be adopted and purchased by boards of education. Such publisher shall forfeit and pay to the state of Ohio five hundred dollars for each failure, to be recovered in the name of the state, in an action to be brought by the attorney-general, in the court of common pleas of Franklin county, or in any other proper court or in any other place where service can be made. The amount, when collected, must be paid into the state treasury to the credit of the common school fund of the state. (92 v. 283 § 4.)

Violation of agreement by publisher.

Text books;
how deter-
mined; five-
year term.

SECTION 7713. At a regular meeting, held between the first Monday in February and the first Monday in August, each board of education shall determine by a majority vote of all members elected the studies to be pursued and which of such text-books so filed shall be used in the schools under its control. But no text-books now in use or hereafter adopted shall be changed, nor any part thereof altered or revised, nor any other text-book be substituted therefor for five years after the date of the selection and adoption thereof, as shown by the official records of such boards, except by the consent at a regular meeting, of five-sixths of all members elected thereto. Books so substituted shall be adopted for the full term of five years. (99 v. 460 § 5.)

Injunction lies to restrain illegal change in school text-books. *Lenhart v. Newton Tp.* (Bd. of Ed.) 18 Dec. 825 (5 N. S., 129).

Text-books,
of whom
ordered.

SECTION 7714. Each board of education shall cause it to be ascertained, and at a regular meeting determine which, and the number of each of such books the schools under its charge require, and cause an order to be drawn for the amount in favor of the clerk of the board of education, payable out of the contingent fund. Such clerk at once shall order the books so agreed upon by the board, of the publisher, who on the receipt of such order must ship them to the clerk without delay. He forthwith shall examine the books, and, if found right and in accordance with the order, remit the amount to the publisher. The board of education must pay all charges for the transportation of the books, out of the school contingent fund. But if such boards of education at any time can secure of the publishers books at less than such maximum price, they shall do so, and without unnecessary delay may make effort to secure such lower price before adopting any particular text-book. (99 v. 460 § 5.)

Board of
education,
power and
duties of.

SECTION 7715. Each board of education shall make all necessary provisions and arrangements to place the books so purchased within easy reach of and accessible to all the pupils in their district. For that purpose it may make such contracts, and take such security as it deems necessary, for the custody, care and sale of such books and accounting for the proceeds; but not to exceed ten per cent. of the cost price shall be paid therefor. Such books must be sold to the pupils of school age in the district, at the price paid the publisher, and not to exceed ten per cent. therefor added. The proceeds of sales shall be paid into the contingent fund of such district. Boards also may contract with local retail dealers to furnish such books at prices above specified, the board being still responsible to the publishers for all books purchased by it. (99 v. 460 § 5.)

Old books,
purchase of.

SECTION 7716. When pupils remove from any district, and have text-books of the kind adopted in such district and not the kind adopted in the district to which they remove, and wish to dispose of them, the board of the district

from which they remove, if requested, shall purchase them at the fair value thereof, and resell them as other books. Nothing herein shall prevent the board of education from furnishing free books to pupils as provided by law. (99 v. 460 § 5.)

SECTION 7717. For the purpose of carrying into effect the foregoing provisions, and paying the expenses incident thereto, there is hereby appropriated out of any money in the state treasury, to the credit of the general revenue fund, not otherwise appropriated, the sum of five hundred dollars, to be disbursed and paid on the allowance and order of the commissioner of common schools. (99 v. 460 § 5.)

Appropriation.

SECTION 7718. A superintendent, supervisor or principal, employed by any board of education in the state shall not act as a sales agent, either directly or indirectly, for any person, firm or corporation whose school text books are filed with such state commissioner, for use in the public schools of the state, as provided by law. A violation of this provision shall work a forfeiture of their certificates to teach in the public schools of Ohio. (99 v. 460 § 5.)

Sales agents, who may not be.

SECTION 7719. Boards of education of city, village, township and special school districts in the state may purchase for each school in either of such districts one copy of "Howe's Historical Collections of Ohio," to be used as a reference book in the study of the history of the state. But such work in quality, style, binding and finish must be equal to the present published edition thereof, bound in half Russia leather, and shall not cost to exceed three dollars per volume, for each set of three volumes. The price of the books and cost of transportation shall be paid out of the contingent fund of such district. (89 v. 241 § 1.)

Purchase of Howe's Historical Collections of Ohio.

SECTION 7720. During the vacations of schools, or when they are out in session such books shall be taken care of in the same manner that maps, globes, dictionaries and other school apparatus are cared for and preserved. (89 v. 241 § 2.)

Care and preservation of books.

SECTION 7721. Physical training shall be included in the branches regularly to be taught in public schools in city school districts, and in all educational institutions supported wholly or in part by money received from the state. Boards of education of city school districts, and boards of such educational institutions must make provisions in the schools and institutions under their jurisdiction for teaching physical training, and adopt such methods as will adapt it to the capacity of pupils in the various grades therein. Other boards may make such provisions. The curriculum in all normal schools of the state shall contain a regular course on physical education. (97 v. 364 § 1.)

Physical culture in schools.

SECTION 7722. Any board of education may establish and maintain manual training, domestic science, and commercial departments; agriculture, industrial, vocational and

Powers of board of education, as to manual training, etc.

trades schools, also kindergartens, in connection with the public school system; and pay the expenses of establishing and maintaining such schools from the public school funds, as other school expenses are paid. (100 v. 17 § 1.)

Instruction
as to effect
of alcoholic
drinks on the
human system

SECTION 7723. The nature of alcoholic drinks and other narcotics, and their effects on the human system, in connection with the various divisions of physiology and hygiene, shall be included in the branches to be regularly taught in the common schools of the state, and in all educational institutions supported wholly, or in part, by money from the state. (94 v. 396 § 1.)

Provision
therefor.

SECTION 7724. Boards of education, and boards of such educational institutions shall make suitable provisions for this instruction in the schools and institutions under their respective jurisdictions, giving definite time and place therefor in the regular course of study; adopt such methods as will adapt it to the capacity of pupils in the various grades; and to corresponding classes as found in ungraded schools. The same tests for promotion shall be required in this as in other branches. (94 v. 396 § 1.)

Instruction
of teachers.

SECTION 7725. In all teachers' institutes, normal schools and teachers' training classes, hereafter established by the state, adequate time and attention shall be given to instruction in the best methods of teaching such branch. (94 v. 396 § 2.)

Examination
of teachers
required.

SECTION 7726. No certificate shall be granted to any person to teach in the common schools, or in any educational institution supported by the state who does not pass a satisfactory examination on such subject, and the best methods of teaching it. (94 v. 396 § 2.)

Duty of com-
missioner of
common
schools.

SECTION 7727. The state commissioner of common school shall see that the provisions in the next two preceding sections relating to county teachers' institutes, and schools and classes by whatever name hereafter established for training teachers, and the examination of teachers, are carried out. Each year, he must make full report of the enforcement of such sections in connection with his annual report. (94 v. 396 § 2.)

Forfeiture
for failure
to give in-
struction.

SECTION 7728. Any school official, or employe in any way concerned, in the enforcement of the next five preceding sections who wilfully refuses or neglects to provide for, or to give the instruction as to the nature and effect of alcoholic drinks and other narcotics, hereinbefore required, shall forfeit and pay for each offense the sum of twenty-five dollars. Mayors, justices of the peace and probate judges shall have concurrent jurisdiction with the common pleas court to try all such offenses. All forfeitures collected hereunder must be paid into the general county school fund of the county in which it was collected. (94 v. 397 § 3.)

When German
language may
be taught.

SECTION 7729. Boards of education may provide for the teaching of the German language in the elementary and

high schools of the district over which they have control, but it shall only be taught in addition, and as auxiliary to, the English language. All the common branches in the public schools must be taught in the English language. (R. S. Sec. 4021.)

SECTION 7730. The board of education of any township school district may suspend the schools in any or all subdistricts in the township district. Upon such suspension the board must provide for the conveyance of the pupils residing in such subdistrict or subdistricts to a public school in the township district, or to a public school in another district, the cost thereof to be paid out of the funds of the township school district. Or, the board may abolish all the subdistricts providing conveyance is furnished to one or more central schools, the expense thereof to be paid out of the funds of the district. No sub-district school where the average daily attendance is twelve or more, shall be so suspended or abolished, after a vote has been taken under the provisions of law therefor, when at such election a majority of the votes cast thereon were against the proposition of centralization, or when a petition has been filed thereunder and has not yet been voted upon at an election. (R. S. Sec. 3922.)

Suspension
schools in
subdistricts;
conveyance
of pupils.

The courts will not interfere with the discretion of township boards of education in suspending schools in subdistricts. 17 O. D. N. P., 269.

SECTION 7731. No township schools shall be centralized under the next preceding section by the board of education of the township until after sixty days' notice has been given by the board, such notices to be posted in a conspicuous place in each subdistrict of the township. When transportation of pupils is provided for, the conveyance must pass within at least the distance of one-half of a mile from the respective residences of all pupils, except when such residences are situated more than one-half of a mile from the public road. But transportation for pupils living less than one and one-half miles, by the most direct public highway, from the school house shall be optional with the board of education. (R. S. Sec. 3922.)

Centralization,
notice re-
quired.

SECTION 7732. Boards of education of special school districts may provide for the conveyance of the pupils of such districts to the school or schools of the districts or to a school of any adjoining district, the expense thereof to be paid from the school fund of the special school districts. But boards of education of such districts as provide transportation for the pupils thereof, shall not be required to transport pupils living less than one mile from the school-house; and such boards of education shall not discriminate between different portions of said districts or between pupils of similar ages or residing at similar distances from the school-house. (R. S. Sec. 3934, as amended April 27, 1910.)

Conveyance of
pupils in
special dis-
tricts.

SECTION 7733. At its option, the board of education in any village school district may provide for the conveyance of the pupils of the district or any adjoining district, to the

Conveyance
of pupils in
village dis-
tricts.

school or schools of the district, the expense of conveyance to be paid from the school funds of the district in which such pupils reside. But such boards as so provide transportation, shall not be required to transport pupils living less than one mile from the school house or houses. (As amended May 10, 1910.)

Pupils may be sent from one district to another.

SECTION 7734. The board of any district may contract with the board of another district for the admission of pupils into any school in such other district, on terms agreed upon by such boards. The expense so incurred shall be paid out of the school funds of the district sending such pupils. (R. S. Sec. 4022.)

Who may be admitted to the public schools: see Sec. 4013.

The contract must be express, merely permitting the attendance of a non-resident pupil creates no liability. 50 O. S., 439.

Attendance at nearest school.

SECTION 7735. When pupils live more than one and one-half miles from the school to which they are assigned in the district where they reside, they may attend a nearer school in the same district, or if there be none nearer therein, then the nearest school in another school district, in all grades below the high school. In such cases the board of education of the district in which they reside must pay the tuition of such pupils without an agreement to that effect. But a board of education shall not collect tuition for such attendance until after notice thereof has been given to the board of education of the district where the pupils reside. Nothing herein shall require the consent of the board of education of the district where the pupils reside, to such attendance. (R. S. Sec. 4022a.)

The foregoing section does not require the board of education to admit pupils to a school outside the district in which they reside unless the school in their district is more than a mile and a half from their residence, and more remote from their residence than the school to which admission is sought. Boyce v. Board of Ed., 76 O. S., 365.

Expense per capita.

SECTION 7736. Such tuition shall be paid from either the tuition or the contingent funds and the amount per capita must be ascertained by dividing the total expenses of conducting the elementary schools of the district attended, exclusive of permanent improvements and repairs, by the total enrollment in the elementary schools of the district, such amount to be computed by the month. An attendance any part of a month will create a liability for the whole month. (R. S. Sec. 4022a.)

Not to apply when schools are centralized.

SECTION 7737. When the schools of a district are centralized or transportation of pupils provided, the provisions of the next two preceding sections shall not apply. (R. S. Sec. 4022a.)

No contract between the boards is necessary. If the receiving board give the permission, the sending board must pay, no permission of the sending board is necessary. 10 C. C., 617.

The distance is to be measured by the most direct public highway, from the school house to the nearest portion of the curtilage of the child's residence. 53 O. S., 39.

Sufficient school accommodations to be provided.

SECTION 7738. Every board of education in this state must provide sufficient accommodations in the public schools for all children in their districts compelled to at-

tend the public schools under the provisions of this chapter. Authority to levy the tax and raise the money necessary for such purpose, is hereby given the proper officers charged with such duty under the law. (R. S. Sec. 4022-13.)

SECTION 7739. Each board of education may furnish, free of charge, school-books, necessary to enable the parent or guardian, without expense therefor, to comply with the requirements of this chapter, to be paid for out of the contingent fund at its disposal. Such levy each year, in addition if necessary to that otherwise authorized, as may be necessary to furnish such school-books free of charge to all the pupils attending the public schools, is hereby authorized. But pupils wholly or in part supplied with necessary school-books shall be supplied only as other or new books are needed. All school-books furnished as herein provided, shall be the property of the district, and loaned to the pupils on such terms and conditions as each such board prescribes. (R. S. Sec. 4026.)

Free school-
books.

Boards of education which furnish free text-books to pupils in the schools under their control may pay the exchange price when making an exchange of text-books; but it is unlawful to do so when the board has not previously adopted the free text-book plan as provided for by law.

SECTION 7740. Each board of county school examiners shall hold examinations of pupils of township and special districts, and of village districts in the subjects of orthography, reading, writing, arithmetic, English grammar and composition, geography, history of the United States, including civil government, and physiology. Two such examinations must be held annually, on the third Saturday of April, and one on the third Saturday of May, at such place or places as such board designates. (As amended April 15, 1910.)

Examination
for entering
high school.

SECTION 7741. The questions for all such examinations, throughout the state, shall be uniform and be prepared under the direction of the state commissioner of common schools. Sample lists must be mailed, under seal, to the clerks of such boards of examiners not less than ten days before each examination. Upon receipt of the lists, the boards are required to have a sufficient number of copies of them printed for use at the examination. Only such applicants as receive an average grade of seventy per cent, with no grade less than fifty per cent in any branch shall be passed. (R. S. Sec. 4029-1.)

Preparation
of questions.

SECTION 7742. Upon written notice, filed by a successful applicant, with its clerk, each township board of education, must provide for holding a township commencement not later than the month of June, at some place within the civil township, and appoint some suitable person to have charge of it. (R. S. Sec. 4029-1.)

Township
commence-
ment.

SECTION 7743. At such commencement each successful applicant residing in the township school district or any special or joint sub-district whose school-house is located

Who to take
part in com-
mencement.

within the civil township of which the township district forms a part, shall be required to deliver an oration or declamation, or read an essay. Thereupon such board of education must issue a certificate to each successful applicant, stating that such applicant took part in the commencement. (R. S. Sec. 4029-1.)

County commencement;
diploma.

SECTION 7744. The board of county school examiners shall provide for the holding of a county commencement not later than August fifteenth, at such place as it determines. At this commencement an annual address must be delivered, at the conclusion of which a diploma shall be presented to each successful applicant who has complied with the provisions hereof. Such diploma shall entitle its holder to enter any high school in the state. (R. S. Sec. 4029-1.)

Compensation
of county
examiner
and clerk.

SECTION 7745. The compensation of county examiners and clerks of boards thereof shall be the same as that fixed by law for the examination of teachers. Each member of such board of examiners, together with the clerk thereof, shall be allowed the minimum fee provided for holding examinations for teachers as remuneration for his services incident to the county Boxwell commencement. Such compensation and the necessary expenses incident to the examination and county commencement shall be paid out of the county treasury as provided by law as to examinations of teachers. No extra compensation shall be allowed to county examiners for holding the county commencement. (R. S. Sec. 4029-2.)

Expense of
commence-
ment.

SECTION 7746. The expenses incident to the township commencement shall be paid by the township board of education from the contingent fund of the township district. When the pupils of special districts take part in such commencements the board of education of such districts, from their contingent funds, shall pay to the township board of education their share of such expenses, such share to be based on the proportion of pupils, from each district, taking part in such commencements. (R. S. Sec. 4029-2.)

Diplomas,
effect of, as
to tuition.

SECTION 7747. The tuition of pupils holding diplomas and residing in township or special districts, in which no high school is maintained, shall be paid by the board of education of the school district in which they have legal school residence, such tuition to be computed by the month. An attendance any part of the month shall create a liability for the entire month; but a board of education maintaining a high school shall not charge more tuition than it charges for other non-resident pupils. (R. S. Sec. 4029-3.)

Third grade
high school,
duty of board
to graduates.

SECTION 7748. A board of education providing a third grade high school as defined by law shall be required to pay the tuition of graduates from such school residing in the district at any first grade high school for two years, or at a second grade high school for one year and a first grade high school for one year. Such a board providing a second

grade high school as defined by law shall pay the tuition of graduates residing in the district at any first grade high school for one year; except that, a board maintaining a second or third grade high school is not required to pay such tuition when a levy of twelve mills permitted by law for such district has been reached and all the funds so raised are necessary for the support of the schools of such district. No board of education is required to pay the tuition of any pupil for more than four school years; except that it must pay the tuition of all successful applicants, who have complied with the further provisions hereof, residing more than four miles by the most direct route of public travel, from the high school provided by the board, when such applicants attend a nearer high school, or in lieu of paying such tuition the board of education maintaining a high school may pay for the transportation of the pupils living more than four miles from the said high school, maintained by the said board of education to said high school. Where more than one high school is maintained, by agreement of the board and parent or guardian, pupils may attend either and their transportation shall be so paid. A pupil living in a village or city district who has completed the elementary school course and whose legal residence has been transferred to a township or special district in this state before he begins or completes a high school course, shall be entitled to all the rights and privileges of a Boxwell-Patterson graduate. (As amended May 10, 1910.)

The foregoing section being general in its application, includes all boards of education — city, village, township and special. Attorney General.

SECTION 7749. When the elementary schools of any township school district in which a high school is maintained are centralized and transportation of pupils is provided all pupils resident of the township school district holding diplomas shall be entitled to transportation to the high school of such township district, and the board of education thereof shall be exempt from the payment of the tuition of such pupils in any other high school for such a portion of four years as the course of study in the high school maintained by the board of education includes. (R. S. Sec. 4029-3.)

Transportation to high school.

SECTION 7750. A board of education not having a high school may enter into an agreement with one or more boards of education maintaining such school for the schooling of all its high school pupils. When such agreement is made the board making it shall be exempt from the payment of tuition at other high schools of pupils living within three miles of the school designated in the agreement, if the school or schools selected by the board are located in the same civil township, as that of the board making it, or some adjoining township. In case no such agreement is entered into, the school to be attended can be selected by the pupil holding a diploma, if due notice in writing is given to the clerk of the board of education of the name of the school to be attended and the date the attendance is to begin, such

Agreement, effect of, as to tuition.

notice to be filed not less than five days previous to the beginning of attendance. (R. S. Sec. 4029-3.)

Tuition,
how paid.

SECTION 7751. Such tuition shall be paid from either the tuition or contingent funds and when the board of education deems it necessary it may levy a tax of not to exceed two mills on each dollar of taxable property in the district in excess of that allowed by law for school purposes. The proceeds of such levy shall be kept in a separate fund and applied only to the payment of such tuition. (R. S. Sec. 4029-3.)

What shall
constitute a
high school.

SECTION 7752. No board of education shall be entitled to collect tuition under this chapter unless it is maintaining a regularly organized high school with a course of study extending over not less than two years and consisting mainly of branches higher than those in which the pupil is examined. The standing or grade of all public high schools in the state shall be determined by the state commissioner of common schools, and his finding in reference thereto shall be final. (R. S. Sec. 4029-4.)

Inspectors,
appointment
and duties of.

SECTION 7753. To aid in the recognition and classification of high schools, established or seeking recognition in accordance with the provisions of this chapter, the state commissioner of common schools shall appoint two competent inspectors. Under the orders and supervision of the commissioner of schools such inspectors shall make examinations of any public schools in the state, visit teachers' institutes, confer with various school authorities and assist the state commissioner of common schools in such other ways as he may direct; but the inspection herein authorized shall not be a substitute for, or take the place of, the inspection made by the Ohio State University for university purposes. In making the first appointment one of the inspectors shall be named for one year and one for two years and thereafter the appointment shall be for two years. Such inspectors shall be paid an annual salary of two thousand dollars. (R. S. Sec. 4029-4a.)

Field agents,
report of.

SECTION 7754. The visitors or field agents of any institution of higher learning, supported wholly or in part by the state of Ohio, shall furnish the state commissioner of common schools with a report of all inspection of public high schools made by them. The reports shall be in such form as the commissioner may prescribe. (R. S. Sec. 4029-4b.)

SCHOOLS FOR THE DEAF.

Establishment
of schools for
the education
of the deaf.

SECTION 7755. Upon application by a board of education of any school district in Ohio to the state commissioner of schools, he shall grant permission to such board, and it thereupon may maintain within its limits one or more day schools, having an average attendance of not less than three pupils, for the instruction of deaf persons over the age of three, residents of this state. (98 v. 219 § 1.)

SECTION 7756. A board of education, which maintains one or more day schools for the instruction of the deaf, shall report to the state commissioner of schools annually, and as often as such commissioner directs, such facts concerning such school or schools as he requires. ((98 v. 219 § 2.)

Report to
state com-
missioner of
schools.

SECTION 7757. The county auditor in each county shall apportion and the county treasurer pay out of the state common school fund received by such county, to the treasurer or other financial officer of a board of education, maintaining a school or schools for the instruction of the deaf, one hundred and fifty dollars for each deaf pupil, resident of such county, instructed in any such school for at least nine months during the school year and a share of such sum proportionate to the term of instruction of any such pupil so instructed less than nine months during such year. If no school is maintained in a county, but persons residing therein attend such school in another county, then the county treasurer of the county not having such a school shall apportion and pay to the financial officer of the board of education of such other county the amount above specified for each pupil attending such school therein. (98 v. 219 § 3.)

How expense
of school de-
frayed.

SECTION 7758. The sums provided in the next preceding section shall be paid by such county treasurer as soon as may be after the receipt by him of the state common school fund in each year, upon satisfactory proof made to him by the president or clerk of the board of education maintaining such a school, of the number of pupils instructed therein, their residences, and the period of time such pupil was so instructed in such school or schools, the preceding school year. (98 v. 219 § 4.)

Payment of
expenses.

SECTION 7759. Teachers in such schools shall be appointed and employed as are other public school teachers. Persons appointed to teach in such a school must have had special training for teaching, and also special training in the teaching of the deaf, including at least one year's experience as a teacher in a school for the deaf. The so-called "oral" system shall be taught by such teachers. If after fair trial of nine months, any of such children, for any reason, is unable to learn such method, then no further expense shall be incurred in effort to teach such child in such primary schools. (98 v. 219 § 5.)

Appointment
and qualifica-
tions of
teachers.

SECTION 7760. For the purposes hereof, any person of sound mind, who, by reason of defective hearing, cannot profitably be educated in the public schools, as other children, shall be considered as deaf. (98 v. 220 § 6.)

Who shall be
considered
as deaf.

SECTION 7761. The state school commissioner shall select some competent person to inspect all such day schools organized, and cause an inspection thereof to be made at least twice a year. Persons so appointed must make a writ-

Inspection of
schools for
deaf.

ten report to such commissioner of the buildings in which such schools are held, the method of instruction and all other matters which may seem to be of interest and profit to the education of the children therein. (98 v. 220 § 7.)

CHAPTER 4.

COMPULSORY EDUCATION.

SECTION

- 7762. Branches children must be taught.
- 7763. Necessary time of attendance; excuse.
- 7764. Appeal in case of refusal to excuse.
- 7765. Employment of children under age of sixteen years.
- 7766. Age and schooling certificate.
- 7767. Attendance of minors in certain cases.
- 7768. Juvenile disorderly persons.
- 7769. Truant officers.
- 7770. Powers.
- 7771. Duties.
- 7772. Report of principal and teachers.
- 7773. Proceedings in case of truancy.

SECTION

- 7774. Proceedings against juvenile disorderly persons.
- 7775. When inmate of children's home committed to reformatory.
- 7776. Costs.
- 7777. Relief to enable child to attend school.
- 7778. Deaf and dumb or blind institutions.
- 7779. Truant officers report to probate judge.
- 7780. Proceedings by probate judge.
- 7781. Costs.
- 7782. Notice to board of county visitors.
- 7783. Employment of attorney; compensation.

SECTION 7762. All parents, guardians and other persons who have care of children, shall instruct them, or cause them to be instructed in reading, spelling, writing, English grammar, geography and arithmetic. (R. S. Sec. 4022-1.)

Branches children must be taught.

SECTION 7763. Every parent, guardian or other person having charge of any child between the ages of eight and fourteen years must send such child to a public, private or parochial school, for the full time that the school attended is in session, which shall in no case be for less than twenty-eight weeks. Such attendance must begin within the first week of the school term, unless the child is excused therefrom by the superintendent of the public schools, in city or other districts having such superintendent, or by the clerk of the board of education in village, special and township districts not having a superintendent, or by the principal of the private or parochial school upon satisfactory showing, either that the bodily or mental condition of the child does not permit of its attendance at school, or that the child is being instructed at home by a person qualified, in the opinion of such superintendent, or clerk as the case may be, to teach the branches named in the next preceding section. (As amended May 10, 1910.)

Necessary time of attendance; excuse.

Parent not complying with board of education's order to vaccinate child not amenable to compulsory education act. State v. Turney, 31 O. C. C., 222, (12 N. S. 33).

SECTION 7764. In case such superintendent, principal or clerk refuses to excuse a child from attendance at school, an appeal may be taken from such decision to the probate judge of the county, upon the giving of a bond, within ten days thereafter, to the approval of such judge, to pay the costs of the appeal. His decision in the matter shall be final. All children between the ages of fourteen and sixteen years, not engaged in some regular employment, shall attend school for the full term the schools of the district in which they reside are in session during the school year, unless excused for the reasons above named. (R. S. Sec. 4022-1.)

Appeal in case of refusal to excuse.

SECTION 12974. Whoever, being a parent, guardian, or other person having the care of a child between the age of eight and fourteen years, fails to place such child in a public, private or

Failure to send child to school.

parochial school at the commencement of the annual school term, in accordance with the law relating to compulsory education and within the time prescribed in such law, shall be fined not less than five dollars nor more than twenty dollars. Upon failure or refusal to pay such fine, said parent, guardian, or other person shall be imprisoned in jail not less than ten days nor more than thirty days. (R. S. Sec 4022-1.)

Employment
of children
under the age
of sixteen
years.

SECTION 7765. No child under sixteen years of age shall be employed or be in the employment of any person, company or corporation during the school term and while the public schools are in session, unless such child presents to such person, company or corporation an age and schooling certificate herein provided for as a condition of employment, who shall keep the same on file for inspection by the truant officer or officers of the department of workshops and factories. (As amended May 10, 1910.)

Age and
schooling cer-
tificate.

SECTION 7766. An age and schooling certificate shall be approved only by the superintendent of schools, or by a person authorized by him, in city or other districts having such superintendent, or by the clerk of the board of education in village, special and township districts not having such a superintendent, upon satisfactory proof that such child is over fourteen years of age, and that such child has been examined and passed a satisfactory fifth grade test in the studies enumerated in section seventy-seven hundred and sixty-two; provided, that residents of other states who work in Ohio must qualify as aforesaid with the proper school authority in the school district in which the establishment is located, as a condition of employment or service, and that the employment contemplated by the child is not prohibited by any law regulating the employment of children under sixteen years of age. Every such age and schooling certificate shall be signed in the presence of the officer issuing the same, by the child in whose name it is issued. The age and schooling certificate must be formulated by the state commissioner of common schools and furnished, in blank, by the clerk of the board of education. Any child between fourteen and sixteen years of age, who shall cease to work for any cause whatever shall report the fact and cause at once to the superintendent of schools, or by a person authorized by him, in city or other districts having such superintendent, or to the clerk of the board of education in village, township or special districts not having such superintendent; said child shall be required to return to school within two weeks, provided other employment is not secured within such time; provided, that should a child in the opinion of the superintendent or person authorized by him in cities and districts having such superintendent or the clerk of the board of education in village, township, or special districts lose his employment by reason of persistent, wilful misconduct or continuous inconstancy, he may be placed in school until the close of the current school year. The superintendent of schools, or the person authorized by him to issue age and schooling certificates, shall not issue such certificate until he

has received, examined and approved and filed the following papers duly executed: (1) The written pledge or promise of the person, partnership or corporation to legally employ the child, also the written agreement to return to the superintendent of schools or to the person authorized by the superintendent of schools to issue such certificate, the age and schooling certificate of the child, within two days from date of the child's withdrawal or dismissal from the service of the person, partnership or corporation, giving the reason for such withdrawal or dismissal; (2) The school record of such child properly filled out and signed by the principal or other person in charge of the school which such child last attended, giving the name, age, address, standing in studies enumerated in Section seven thousand seven hundred and sixty-two and number of weeks attendance in school during the year previous to applying for such school record, and general conduct; (3) A passport or duly attested transcript of the certificate of birth or baptism or other religious record, showing the date and place of birth of such child; a duly attested transcript of the birth certificate filed according to law with a registrar of vital statistics, or other officer charged with the duty of recording births, shall be conclusive evidence of the age of the child; or the affidavit of the parent or guardian or custodian of the child applying for an age and schooling certificate showing the place and date of birth of such child, which affidavit must be taken before the officer issuing the age and schooling certificate, who is hereby authorized and required to administer such oath, and who shall not receive or demand a fee therefor; (4) When a reasonable doubt exists in the mind of the superintendent or the person authorized by him that the child has not reached the normal development of a child of its age and is not in sound health and physically able to perform the work which it intends to do, he shall require of the parent or guardian a certificate from the board of health showing that the child is able to perform the work he is to be employed at. (As amended May 10, 1910.)

SECTION 7767. All minors over the age of fourteen and under the age of sixteen years, who have not passed a satisfactory fifth grade test in the studies enumerated in Section seventy-seven hundred and sixty-two, shall attend school as provided in Section seventy-seven hundred and sixty-three, and all the provisions thereof shall apply to such minors.

Attendance of minors in certain cases.

In case the board of education of any school district establishes part time day schools for the instruction of youth over fourteen years of age who are engaged in regular employment, such board of education is authorized to require all youth who have not satisfactorily completed the eighth grade of the elementary schools, to continue their schooling until they are sixteen years of age; provided, however, that such youth if they have been granted age and schooling certificates and are regularly employed, shall be required to attend school not to exceed eight hours a week between the hours of 8 A. M. and 5 P. M. during the school term. All

youth between fourteen and sixteen years of age, who are not employed, shall be required to attend school the full time. (As amended May 10, 1910.)

Juvenile disorderly persons.

SECTION 7768. Every child between the ages of eight and fourteen years, and every child between the ages of fourteen and sixteen years not engaged in some regular employment, who is an habitual truant from school, or who absents itself habitually from school, or who, while in attendance at any public, private or parochial school, is incorrigible, vicious or immoral in conduct, or who habitually wanders about the streets and public places during school hours having no business or lawful occupation, or violates any of the provisions of this act, shall be deemed a delinquent child, and shall be subject to the provisions of law relating to delinquent children. (As amended May 10, 1910.)

Many different meanings are likely to be attached to the phrases "regular employment," "habitual truant," "lawful occupation," etc., and in the absence of any decision of the court defining these expressions, it is very difficult, in fact scarcely possible, to draw an exact line of definition. Boards of education should adopt rules governing such matters. Such rules should inform the public as to the interpretation placed upon these expressions by the board, and if reasonable, would almost certainly be sustained by the courts.

Truant officers.

SECTION 7769. To aid in the enforcement hereof, truant officers shall be appointed as follows: In city districts the board of education must appoint and employ a truant officer, and may employ such assistants to such truant officer as may be deemed advisable; in special, village and township districts the board of education shall appoint a constable or other person as truant officer. The compensation of the truant officer and assistants shall be fixed and paid by the board appointing them. (As amended May 10, 1910.)

Powers.

SECTION 7770. The truant officer and assistants shall be vested with police powers, the authority to serve warrants, and have authority to enter workshops, factories, stores and all other places where children are employed, and do whatever may be necessary, in the way of investigation or otherwise, to enforce this act. He also may take into custody any youth between eight and fourteen years of age, or between fourteen and sixteen years of age when not regularly employed who is not attending school, and shall conduct such youth to the school he has been attending, or which he rightfully should attend. (As amended May 10, 1910.)

Duties.

SECTION 7771. The truant officer shall institute proceedings against any officer, parent, guardian, person, partnership or corporation violating any provisions of this chapter, and otherwise discharge the duties described therein, and perform such other services as the superintendent of schools or the board of education may deem necessary to preserve the morals and secure the good conduct of school children, and to enforce the provisions of this chapter. The truant

officer shall keep on file the name, address and record of all children between the ages of fourteen and sixteen to whom age and schooling certificates have been granted who desire employment, and manufacturers, employers or other persons requiring help of legal age shall have access to such files. The truant officer shall co-operate with the department of workshops and factories in enforcing the conditions and requirements of the child labor laws of Ohio, furnishing upon request such data as he has collected in his reports of children from eight to sixteen years of age and also concerning employers, to the department of workshops and factories and to the state commissioner of schools. He must keep a record of his transactions for the inspection and information of the superintendent of schools and the board of education; and make daily reports to the superintendent during the school term in districts having them, and to the clerk of the board of education in districts not having superintendents as often as required by him. Suitable blanks for the use of the truant officer shall be provided by the clerk of the board of education. (As amended May 10, 1910.)

Chief and district inspectors of workshops have authority of truant officers, etc., under act as to employment of minors; see Sec. 6246.
Where a pupil is attending school in a district in which he does not reside, he is under the jurisdiction of the school officers of the district where he attends.

SECTION 7772. Principals and teachers of all schools, public, private and parochial, shall report to the clerk of the board of education of the city, special, village or township district in which the schools are situated, the names, ages and residence of all pupils in attendance at their schools, together with such other facts as said clerk may require in order to facilitate the carrying out of the provisions of this chapter. The clerk shall furnish blanks for such purpose, and such report shall be made during the last week of each month from September to June inclusive of each year. Such principals and teachers also must report to the truant officer, the superintendent of public schools, or the clerk of the board of education, all cases of truancy or incorrigibility in their respective schools as soon after these offenses have been committed as practicable. It shall further be within the power of all principals or teachers in charge of schools, wherever a child in school reaches his or her twelfth year and has not completed the fourth grade work in the studies enumerated in Section seventy-seven hundred sixty-two, to relieve such child from pursuing the regular course prescribed and cause such child to give his entire time to reading, writing, spelling, geography, arithmetic and the use of the English language with as much manual training as opportunity and funds will permit. (As amended May 10, 1910.)

Report of principal and teachers.

Boards of education should have blank forms printed to comply with the provisions of this section of the law.

SECTION 7773. On the request of the superintendent of schools or the board of education or when it otherwise comes to his notice, the truant officer shall examine into

Proceedings in case of truancy.

any case of truancy within his district, and warn the truant and his parents, guardian or other person in charge, in writing, of the final consequences of truancy if persisted in. When any child between the ages of eight and fourteen years, or between the ages of fourteen and sixteen years, in violation of the provisions of this chapter is not regularly employed, is not attending school, the truant officer shall notify the parent, guardian or other person in charge of such child, of the fact, and require such parent, guardian or other person in charge, to cause the child to attend some recognized school within two days from the date of the notice; and it shall be the duty of the parent, guardian or other person in charge of the child so to cause its attendance at some recognized school. Upon failure to do so, the truant officer shall make complaint against the parent, guardian or other person in charge of the child, in any court of competent jurisdiction in the city, special, village or township district in which the offense occurred for such failure. (As amended May 10, 1910.)

SECTION 12975. Whoever employs a minor under sixteen years of age before exacting from such minor the age and schooling certificate provided by law, or fails to keep such certificate on file, or who fails to return to the superintendent of schools or the person authorized by him such certificate within two days from such minor's withdrawal or dismissal from his services as provided in Section seventy-seven hundred and sixty or to permit a truant officer, upon request therefor, to examine such certificate, shall be fined not less than twenty-five dollars nor more than fifty dollars. (As amended May 10, 1910.)

SECTION 12977. Whoever, being the parent or guardian or other person in charge of a minor between eight and fourteen years of age, or a minor between fourteen and sixteen years of age who has not passed a satisfactory fifth grade test in the studies enumerated in Section seventy-seven hundred and sixty-two, or is not regularly employed, upon notice from a truant officer as provided by law, fails to cause such minor to attend a public, private, or parochial school, unless such person proves his inability so to do, shall be fined not less than five dollars nor more than twenty dollars, or the court may in its discretion, require the person so convicted to give a bond in the sum of one hundred dollars, with sureties to the approval of the court, conditioned that he or she will cause the child under his or her charge to attend some recognized school within two days thereafter and to remain at such school during the term prescribed by law; and upon the failure or refusal of any such parent, guardian or other person to pay said fine and costs or furnish said bond according to the order of the court, then said parent, guardian or other person shall be imprisoned in the county jail not less than ten days nor more than thirty days. (As amended May 10, 1910.)

Proceedings
against juven-
ile disorderly
persons.

SECTION 7774. If the parent, guardian or other person in charge of any child, upon complaint for a failure to cause the child to attend a recognized school, proves inability to do so, then he or she must be discharged and thereupon the truant officer shall make complaint that the child is a juvenile disorderly person within the meaning of section seventy-seven hundred and sixty-eight. If such complaint be made before a mayor, justice of the peace, or police judge, it must be certified by such magistrate to the probate judge. The

probate judge shall hear the complaint, and if he determines that the child is a juvenile disorderly person within the meaning of such section, and if under ten years of age, and eligible for admission thereto, he shall commit the child to a children's home, or if not eligible, then to a house of refuge, if there be one in the county or to the boys' industrial school or the girls' industrial home, or to some other juvenile reformatory. (R. S. Sec. 4022-8.)

SECTION 7775. No child over ten years of age shall be committed to a county children's home. Any child committed to such a home, on request of the trustees thereof, and it being shown that it is vicious and incorrigible, may be transferred by the probate judge to the boys' industrial school or the girls' industrial home. A child committed to any juvenile reformatory under the next preceding section, shall not be detained there beyond the age of sixteen years and may be discharged sooner by the trustees under the restrictions applicable to other inmates. An order of commitment to a juvenile reformatory may be suspended, in the discretion of the probate judge, and for such time as the child regularly attends school and properly conducts itself. (R. S. Sec. 4022-8.)

When inmate of children's home committed to reformatory.

SECTION 7776. The expense incurred in the transportation of a child to a juvenile reformatory and the costs in the case in which the order of commitment is made, or the child discharged, or in which judgment is suspended, shall be paid by the county where the offense was committed, after the manner provided in case of commitment to a boys' industrial school. But if for any cause the parent, guardian or other person in charge of a juvenile disorderly person as defined in section seventy-seven hundred and sixty-eight fails to cause such person to attend school, then complaint against such person shall be made, heard and determined in like manner as provided in case the parent proves inability to cause such person to attend school. (R. S. Sec. 4022-8.)

Costs.

SECTION 7777. When a truant officer is satisfied that a child, compelled to attend school by the provisions of this chapter, is unable to do so because absolutely required to work at home or elsewhere in order to support itself or help to support or care for others legally entitled to its services who are unable to support or care for themselves, such officer must report the case to the president of the board of education. Thereupon he shall furnish text books free of charge, and such other relief as may be necessary to enable the child to attend school for the time each year required by law. The expenses incident to furnishing books and relief must be paid from the contingent funds of the school district. Such child shall not be considered or declared a pauper by reason of the acceptance of the relief herein provided for. If the child, or its parents or guardian, refuses

Relief to enable child to attend school.

or neglects to take advantage of the provisions thus made for its instruction, it may be committed to a children's home or a juvenile reformatory, as provided for in the next three preceding sections. (R. S. Sec. 4022-9.)

Deaf and
dumb or blind
institutions.

SECTION 7778. The provisions of this chapter shall apply to children entitled under existing statutes, to attend school at the institution for the deaf and dumb or the institution for the blind, so far as they are properly enforceable. (R. S. Sec. 4022-10.)

Truant officers
report to
probate judge.

SECTION 7779. Annually between the first day of July and the first day of August, truant officers must report to the probate judge of their respective counties the names, ages and residences of all such children between the ages of eight and eighteen years, with the names and postoffice address of their parents, guardians or the persons in charge of them; also a statement whether the parents, guardians or persons in charge of each child is able to educate and is educating the child, or whether the interests of the child will be promoted by sending it to one of the state institutions mentioned. (R. S. Sec. 4022-10.)

Proceedings
by probate
judge.

SECTION 7780. Upon information thus or otherwise obtained, the probate judge may fix a time when he will hear the question whether any such child shall be required to be sent for instruction to one of the state institutions mentioned, and thereupon issue a warrant to the proper truant officer or some other suitable person, to bring the child before him, at his office at the time fixed for the hearing. He also shall issue an order on the parents, guardian or person in charge of the child to appear before him at such hearing, a copy of which order, in writing, must be served personally on the proper person by the truant officer or other person ordered to bring the child before the judge. If, on the hearing, the probate judge is satisfied that the child is not being properly educated at home, and will be benefited by attendance at one of the state institutions mentioned, and is a suitable person to receive instruction therein, he may send or commit such child thereto. (R. S. Sec. 4022-10.)

Costs.

SECTION 7781. The costs of such hearing, and the transportation of the child to such institution shall be paid by the county after the manner provided, when a child is committed to a state reformatory. Nothing in the next two preceding sections shall require the trustees of either of the state institutions mentioned, to receive any child not a suitable subject to be received and instructed therein, under the laws, rules and regulations governing such institutions. (R. S. Sec. 4022-10.)

Notice to
board of
county
visitors.

SECTION 7782. In every case of complaint against a child involving commitment to a children's home or juvenile reformatory, the board of county visitors shall be notified and must attend and protect the interest of the child on the hearing, as provided by law in regard to the commit-

ment to an industrial or reform school. The order of commitment of the child to a state reformatory must show that the county visitors were so notified and attended the hearing. (R. S. Sec. 4022-11.)

SECTION 7783. Boards of education are authorized to employ legal counsel to prosecute any case arising under the provisions of this chapter when it deems that necessary. The services of such counsel shall be paid for from the contingent fund of the district. (R. S. Sec. 4022-11.)

Employment
of attorney;
compensation.

SECTION 12981. Whoever, being an officer, principal, teacher, or other person, neglects to perform a duty imposed upon him by the laws relating to compulsory education or employment of minors, for which a specific penalty is not provided by law, shall be fined not less than twenty-five dollars nor more than fifty dollars for each offense. (R. S. Sec. 4022-11.)

Violating com-
pulsory educa-
tion laws.

SECTION 12982. Whoever, being an officer or agent of a corporation, violates any provision of law relating to the compulsory education or employment of minors, or participates or acquiesces in, or is cognizant of such violation, where a specific penalty is not otherwise provided by law, shall be fined not less than twenty-five dollars nor more than fifty dollars. (R. S. Sec. 4022-11.)

Same.

SECTION 12983. Whoever violates any provision of law relating to the compulsory education or employment of minors, for which a specific penalty is not provided by law, shall be fined not more than fifty dollars. (R. S. Sec. 4022-11.)

Same.

SECTION 12984. Mayors, justices of the peace, police judges and probate judges shall have final jurisdiction to try the offenses prescribed in the next ten preceding sections. When complaint is made, information filed, or indictment found against a corporation for violating any provision of such sections, summons shall be served, appearance made, or plea entered as provided by law in cases where an indictment is presented against a corporation, except in complaints before magistrates, when service may be made by the constable. In other cases process shall be served and proceedings had as in cases of misdemeanor. (R. S. Sec. 4022-11.)

Jurisdiction
of mayors
et. al.

SECTION 12985. Fines collected under the provisions of the next eleven preceding sections shall be paid into the funds of the school district in which the offense was committed. (R. S. Sec. 4022-11.)

Fines.

SECTION 12986. Whoever, having been convicted of a violation of any provision of law relating to the compulsory education or employment of minors, again violates a provision of such laws, shall be imprisoned not less than ten days nor more than thirty days. (R. S. Sec. 4022-12.)

Second viola-
tion of com-
pulsory educa-
tion or em-
ployment
laws.

SECTION 12987. On complaint before a mayor, justice of the peace or police judge of a second or further violation of the laws relating to the compulsory education or employment of minors, if a trial by jury is not waived, a jury shall be chosen and proceedings had therein as provided by law in cases of a violation of the law for the prevention of cruelty to animals and children. (R. S. Sec. 4022-12.)

Jury in
such case.

SECTION 12988. No person or officer instituting proceedings under the next fourteen preceding sections shall be required to file or give security for costs. If a defendant is acquitted or discharged, or if convicted and committed to jail in default of payment of fine and costs, the justice, mayor, police judge or probate judge before whom such case was brought shall certify such costs to the county auditor, who shall examine the amount and, if necessary, correct it and issue his warrant to the county treasurer in favor of the respective persons to whom such costs are due for the amount due to each. (R. S. Sec. 4022-14.)

Costs in
certain
prosecutions.

CHAPTER 5.

REPORTS.

SECTION

7784. Reports by superintendents and teachers.
7785. Special reports by superintendents and teachers.
7786. When orders of clerk for teachers' pay illegal.
7787. Annual report of board of education; its contents.
7788. In what form to be made, etc.

SECTION

7789. Duty of county auditor as to school statistics, etc.
7790. Penalty for failure to make reports.
7791. When auditor to appoint person to make reports.
7792. Further penalties against auditor.
7793. Compensation of auditor.

Reports by
superintendents
and
teachers.

SECTION 7784. Boards of education shall require all teachers and superintendents to keep the school records in such manner that they may be enabled to report annually to the county auditor and state commissioner of common schools as required by the provisions of this title and shall withhold the pay of such teachers and superintendents as fail to file the reports required of them. The records of each school, in addition to all other requirements shall be so kept as to exhibit the names of all pupils enrolled therein, the studies pursued; also, indicate the character of the work done, the standing of each pupil, and must be as near uniform throughout the state as is practicable. (R. S. Sec. 4059.)

Special reports
by superintendents
and
teachers.

SECTION 7785. Such boards may require superintendents and teachers to report matters the boards deem important or necessary for information in regard to the management and conduct of the schools and to make such suggestions and recommendations as they deem advisable relative to methods of instruction, school management, or other matters of educational interest. The board of education of each city district shall prepare and publish annually a report of the condition and administration of the schools under its charge, and include therein a complete exhibit of the financial affairs of the district. (R. S. Sec. 4059.)

When orders
of clerk for
teachers' pay
illegal.

SECTION 7786. No clerk of a board shall draw an order on the treasurer for the payment of a teacher for services until the teacher files with him such reports as are required by the state commissioner of common schools and the board of education, a legal certificate of qualification, or a true copy thereof, covering the entire time of the service, and a statement of the branches taught. But orders may be drawn for the payment of special teachers of drawing, painting, penmanship, music, gymnastics, or a foreign language, on presentation of a certificate to the clerk, signed by a majority of the examiners, and the filing with him of a true copy thereof, covering the time for which the special teacher has been employed and the specialty taught. (R. S. Sec. 4051.)

An order drawn by the clerk of the board of education, under the statute in favor of a third person or bearer, on the township treasurer, is not nego

liable, and a purchaser takes such order subject to the same defenses that could be made against it in the hands of the payee. 22 O. S., 144.

The written acceptance of such order by the predecessor of the township treasurer, to whom it was presented for payment, imposes no greater obligation on the latter to pay the same, than he would have been under had it been presented without such acceptance. Id.

Not only the teacher, but each member of the board of education, is severally liable for the repayment of money paid under their vote and order, to a teacher who does not hold a certificate as required by law. The same rule applies to all payments made to teachers before reports required by law, by the State Commissioner of Common Schools, and by the board of education, have been made.

An assistant teacher who has not a legal certificate cannot be paid through an order drawn in favor of another teacher who had a certificate, nor can any uncertificated teacher, who is employed as a substitute, receive pay through another teacher.

The term "entire term of service," as used in this section, refers to the time of service covered by the order to be drawn, not to the entire time of employment.

SECTION 7787. The board of education of each district shall make a report to the county auditor, on or before the first day of September in each year, containing a statement of the receipts and expenditures of the board, the number of schools sustained, the length of time they were sustained, the enrollment of pupils, the average monthly enrollment, and average daily attendance, the number of teachers employed, and their salaries, the number of school-houses and school rooms, and such other items as the commissioner of common schools requires. (R. S. Sec. 4057.)

Annual report
of board of
education;
its contents.

SECTION 7788. Such report must be made on blanks which shall be furnished by the commissioner of common schools to the auditor of each county, and by the auditor to each school clerk in his county. Each board of education, or officer or employe thereof, or other school officer in any district or county, when the commissioner so requires, shall report to him direct, upon such blanks as he furnishes any statements or items of information that he deems important or necessary. (R. S. Sec. 4058.)

In what form
to be made,
etc.

SECTION 7789. On or before the twentieth day of September, annually, the auditor of each county shall prepare, and transmit to the commissioner of common schools, an abstract of all the returns of school statistics made to him from the several districts in his county, according to the form prescribed by the commissioner, a statement of the condition of the institute fund, and such other facts relating to schools and school funds as the commissioner requires. He also shall cause to be distributed all such circulars, blanks, and other papers, including school laws and documents, in the several school districts in the county, as the commissioner may lawfully require. (R. S. Sec. 4060.)

Duty of
county au-
ditor as to
school sta-
tistics, etc.

SECTION 7790. If the auditor neglects to prepare and return any of the abstracts or reports herein required, the county commissioners shall withhold from him all compensation for his services under this title, and he shall also be liable on his bond for any such neglect, in a sum not less than three hundred nor more than one thousand dollars, on complaint of the commissioner of common schools, and if the clerk of the board of education of any district fails to make the annual returns of school statistics required by this

Penalty for
failure to
make reports.

title, to the county auditor, he shall be liable on his bond, in a sum not less than fifty nor more than three hundred dollars, on complaint of the county auditor, or of the board of education, to be recovered in a civil action in the name of the state, and when collected to be paid into the county treasury, and applied to the use of common schools in such district. (R. S. Sec. 4061.)

When auditor
to appoint
person to
make reports,

SECTION 7791. Upon the neglect or failure of the clerk of the board of education of any district to make the reports required in this title, and by the time specified, the county auditor must appoint some suitable person, resident of the district, to make such reports who shall receive the compensation therefor, allowed by law for like services. (R. S. Sec. 4062.)

Further pen-
alties against
auditor.

SECTION 7792. A county auditor who willfully or negligently fails, in any year, to transmit to the commissioner of common schools the abstract of enumeration by law required of him, or to perform any other duty required of him in this title, shall be liable on his bond to the extent of twice the sum lost to the school districts of his county in consequence of such failure. Such sum shall be recovered in a civil action against him, on his bond, in the name of the state. The money so recovered must be paid into the county treasury, for the benefit of such districts, and apportioned as the school funds so lost would have been apportioned. (R. S. Sec. 4063.)

Compensation
of auditor.

SECTION 7793. The commissioners of each county, annually shall allow the county auditor a reasonable compensation for his services under this title, not to exceed five dollars for each city, village, special, and township school district in his county, to be paid out of the county treasury. But before such allowance shall be made for any year the auditor must present to the commissioners a statement, officially certified and signed by the commissioner of common schools, that he has transmitted to him all reports and returns of statistics for that year required by this title. (R. S. Sec. 4064.)

CHAPTER 6.

ENUMERATION.

SECTION

7794. Annual enumeration.
 7795. Additional facts to be ascertained.
 7796. How enumeration taken.
 7797. Report to be kept; compensation.
 7798. When district situated in two or more counties.
 7799. Clerk to transmit abstract of enumeration to county auditor.
 7800. When the clerk fails, auditor to act.

SECTION

7801. When county line divides original surveyed township.
 7802. When enumeration not taken, district not entitled to school funds.
 7803. Auditor to furnish abstract to state commissioner.
 7804. Duty of state commissioner when enumeration excessive.

SECTION 7794. An enumeration of all unmarried youth noting sex, between six and twenty-one years of age, resident within the district, and not temporarily there, shall be taken in each district, annually, during the two weeks ending on the fourth Saturday of May, designating also the number between six and eight years of age, the number between eight and fourteen years of age, the number between fourteen and sixteen years of age, the number between sixteen and twenty-one years of age, the number residing in the Western Reserve, the Virginia Military district, the United States Military district, and in any original surveyed township or fractional township to which belongs section sixteen, or other land in lieu thereof, or any other lands for the use of public schools, or any interest in the proceeds of such lands. (R. S. Sec. 4030.)

Annual enumeration.

Enumeration in children's homes; see Sec. 3088.

At the annual enumeration of school youth as required by the provisions of Sec. 7794, the ages of such youth at the taking of enumeration should be returned and not as of September 1st following. Attorney General.

The youth enumerated must be actual residents of the district, living with parents or guardians or working to support themselves by their own labor; see Sec. 7681 and notes under same.

SECTION 7795. When taking such enumeration, the person appointed to take it, shall make every effort to ascertain the number of imbeciles or feeble-minded children between the ages of six and twenty-one, resident within the district. He shall keep an accurate list of the names, sex, age and place of residence of all such children, and make it a part of his report to the clerk of the board of education. There also shall be so taken an accurate enumeration of all physically disabled, blind, deaf or mute children, noting sex, between six and twenty-one years of age, resident within the district. (R. S. Sec. 4030.)

Additional facts to be ascertained.

SECTION 7796. On or before the second Saturday in May, the board of education of each school district shall appoint one or more persons to take the enumeration provided for in the next two preceding sections. Each person appointed shall take an oath or affirmation to take the enumeration accurately and truly to the best of his skill and ability. When making return thereof to the clerk of the board of education, he shall accompany it with a list of the names of all the youth enumerated, noting the age of each,

How enumeration taken.

with his affidavit duly certified that he has taken and returned the enumeration accurately and truly to the best of his knowledge and belief, and that such list contains the names of all such youth so enumerated and none others. The clerk of the board of education or any officer authorized to administer oaths, may administer such oath or affirmation, and take and certify such affidavit. (R. S. Sec. 4031.)

Report to
be kept;
compensation.

SECTION 7797. The clerk shall keep such report and the list of names in his office for five years. Each person so taking and returning the enumeration shall be allowed by the proper board of education reasonable compensation for his service. (R. S. Sec. 4031.)

When district
situated in
two or more
counties.

SECTION 7798. When a school district including territory attached for school purposes, is situated in two or more counties, persons taking such enumeration must report the number of youth as provided in sections seventy-seven hundred and ninety-four, and seventy-seven hundred and ninety-five, residing in each county. The clerk of the board shall make returns to the auditors of the respective counties in which such youth reside as provided in the next following section. (R. S. Sec. 4032.)

Clerk to trans-
mit abstract of
enumeration to
county auditor.

SECTION 7799. Annually, on or before the first Saturday in July, the clerk of each board shall make and transmit to the county auditor, an abstract of the enumeration by this chapter required to be returned by him, according to the form prescribed by the commissioner of common schools, with an oath or affirmation endorsed thereon that it is a correct abstract of the returns made to him under oath or affirmation. The oath or affirmation of the clerk may be administered and certified by any member of the board of education, or by the county auditor. (R. S. Sec. 4035.)

When the
clerk fails,
auditor to act.

SECTION 7800. If the clerk of any district fails to transmit such abstract of enumeration on or before the first Saturday in July, the auditor at once shall demand it from him. In case the enumeration has not been taken as required by this chapter, or the abstract required be not furnished without delay, the auditor shall employ competent persons to take it, who shall be subject to the legal requirements already specified, except that the return must be made directly to the auditor, who may administer to each person employed the oath or affirmation required. He shall allow the person employed by him, a reasonable compensation, to be paid out of the general county fund, and then proceed to recover the amount so paid in civil action before any court of competent jurisdiction, in the name of the state, against such clerk on his bond. The amount so collected shall be paid into the school funds of the district. (R. S. Sec. 4036.)

The returns should now be made on or before the first Saturday in June, as the time of taking the enumeration was changed from July to May without changing the time fixed for making returns.

SECTION 7801. If parts of an original surveyed township or fractional township are situated in two counties, the auditor of the county in which the smallest part is situated, so soon as the abstracts of enumeration are received by him from the clerks of the boards of education, shall certify to the auditor of the county in which the largest part is situated the enumeration of youth residing in the part of the township situated in his county. If parts of such township or fractional township are situated in more than two counties, like certificates of enumeration must be transmitted to the auditor of the county containing the greatest relative portion of such township, by the auditors of the other counties containing portions thereof. When it is uncertain which county contains the greatest relative portion of such township, such certificates shall be transmitted to the auditor of the oldest county, by the other auditor or auditors. If the land granted by congress to such township or fractional township for the support of public schools has been sold, the auditor to whom such certificates are transmitted must notify the auditor of state, without delay, that such enumeration has been certified. (R. S. Sec. 4037.)

When county line divides original surveyed township.

This section has nothing whatever to do with the enumeration returned by county auditors to the state commissioner of common schools.

SECTION 7802. If an enumeration of the youth of a district be not taken and returned in any year, such district shall not be entitled to receive any part of the school funds distributable in that year on the basis of enumeration. If such loss to a district occurs through the failure of the clerk of the board of education of a district to perform the duty required of him under section seventy-seven hundred and ninety-nine, he shall be liable to the district for the loss, which may be recovered in an action in the name of the state. The money so recovered shall be paid into the county treasury, and apportioned as the school funds so lost would have been apportioned. (R. S. Sec. 4038.)

When enumeration not taken, district not entitled to school funds.

SECTION 7803. On or before the third Saturday in July in each year, the auditor of each county shall make and transmit to the state commissioner of common schools, on blanks to be furnished by the commissioners, an abstract of the enumeration returns made to him duly certified. (R. S. Sec. 4039.)

Auditor to furnish abstract to state commissioner.

SECTION 7804. When, on examination of the enumeration returns of any district, the state commissioner of common schools is of opinion that the enumeration is excessive in number, or in any other way incorrect, he may require it to be re-taken and returned. If he thinks it necessary for this purpose he may appoint persons to perform the service, who shall take the oath, perform the duties, and receive the same compensation, out of the same funds, as the person or persons who took the enumeration in the first instance. The school fund distributable in proportion to enumeration shall be distributed upon the corrected returns. (R. S. Sec. 4040.)

Duty of state commissioner when enumeration excessive.

False enumeration of school children.

SECTION 12929. Whoever, being an officer having supervision over the annual enumeration of unmarried youths between six and twenty-one years of age, taken in conformity to law, increases or diminishes the number enumerated, shall be fined not less than five dollars nor more than one thousand dollars or imprisoned in the county jail not less than ten days nor more than thirty days. (R. S. Sec. 4041.)

CHAPTER 7.

EXAMINERS.

STATE BOARD OF EXAMINERS.

SECTION

- 7805. State board; their appointment.
- 7806. Terms and vacancies.
- 7807. Power to issue certificates; record thereof.
- 7808. Effect thereof; may be revoked for cause.
- 7809. Examination fees.
- 7810. Compensation of examiners.

COUNTY BOARD OF EXAMINERS.

- 7811. County boards.
- 7812. Who ineligible.
- 7813. Term.
- 7814. Vacancies.
- 7815. Organization of board; duties of officers.
- 7816. Rules and regulations.
- 7817. Meetings for examinations; notice.
- 7818. Majority's power; examination fees.
- 7819. Uniform system of examination.
- 7820. Disposition of fees.
- 7821. Teachers' certificates.
- 7822. Provisional certificates, defined.
- 7823. Professional certificates, defined.
- 7824. Effect of certificates of other counties.
- 7825. Regulations, as to issue of certificates without examination.
- 7826. Temporary certificate.
- 7827. Minimum age limit.
- 7828. Fees for examiners conducting investigation.
- 7829. What kind of certificates shall be issued.
- 7830. Certificate of prerequisite to employment of teacher.
- 7831. Certificate of high school teacher and superintendent.

SECTION

- 7832. Certificate of special teacher.
- 7833. Recognition or renewal of certificates.
- 7834. Compensation of board.
- 7835. Expenses of board.
- 7836. Annual report of clerk; his bond.
- 7837. Compensation of clerk.

CITY BOARD OF EXAMINERS.

- 7838. City board of school examiners, appointment, term.
- 7839. Removals and vacancies.
- 7840. Standard of qualification for teachers.
- 7841. Special examiners.
- 7842. Organization of board; duties of officers; clerk's bond.
- 7843. Meetings for examination; notice.
- 7844. Certificates.
- 7845. Renewal of certificate.
- 7846. Professional certificates.
- 7847. Validity of professional certificates.
- 7848. Regulations, as to granting certificates without examinations.
- 7849. Temporary certificates.
- 7850. Minimum age limit; revocation of certificate.
- 7851. Fees for examiners conducting investigation.
- 7852. Kind of certificates authorized to be issued; proviso.
- 7853. Compensation of members and clerk; incidental expenses.
- 7854. Duties of clerk of city board of school examiners.
- 7855. Disposition of examination fees.
- 7856. Consideration of applicants' answers; issue of certificates or notice of failure.
- 7857. Manuscripts to be placed on file.
- 7858. Applicant's right of appeal.

STATE BOARD OF EXAMINERS.

SECTION 7805. There shall be a state board of examiners, consisting of five competent persons, resident of the state, to be appointed by the state commissioner of common schools. Not more than three of them shall belong to the same political party. (R. S. Sec. 4065.)

State board;
their appointment.

SECTION 7806. The term of office of such examiners shall be five years. The term of one of the examiners shall expire on the thirty-first day of August each year. When a vacancy occurs in the board, whether from expiration of the term of office, refusal to serve, or other cause, such commissioner shall fill it by appointment for the full or unexpired term, as the case demands. (R. S. Sec. 4065.)

Terms and
vacancies.

SECTION 7807. The board thus constituted may issue three grades of life certificates to such as are found to possess the requisite scholarship, and who exhibit satisfactory evidence of good moral character and of professional experience and ability. The certificate shall be for different grades of schools according to branches taught, and be valid in the schools specified therein. The clerk of the board must keep a record of the proceedings, showing the number, date

Power to issue
certificates;
record thereof.

and grade of each certificate, to whom granted, and for what branches of study, and report such statistics to the commissioner, annually, on or before the thirty-first day of August. (R. S. Sec. 4066.)

The state board of examiners issues the following certificates: High school life, common school life and special life. High school life certificates are unlimited, common school life and special life are limited to the branches of study specified therein.

Effect thereof;
may be re-
voked for
cause.

SECTION 7808. All certificates issued by such board shall be countersigned by the commissioner of common schools. They shall supersede the necessity of any and all other examinations of the persons holding them, by any board of examiners, and be valid in any school district in the state, unless revoked by the state board for good cause. (R. S. Sec. 4067.)

Examination
fees.

SECTION 7809. Each applicant for a certificate shall pay to the board of examiners a fee of five dollars. The clerk of the board must pay to the state treasurer, all fees received, and file with the state auditor a written statement of the amount. (R. S. Sec. 4068.)

Compensation
of examiners.

SECTION 7810. Each member of the board shall be entitled to receive five dollars for each day he is necessarily engaged in official service, and also six cents per mile each way for traveling from and to his place of residence, by the most direct route of public travel to and from the places of meeting of the board, to be paid out of the state treasury on the order of the state auditor. All books, blanks and stationery required by the board must be furnished by the secretary of state. (R. S. Sec. 4068.)

COUNTY BOARD OF EXAMINERS.

County
boards.

SECTION 7811. There shall be a county board of school examiners for each county, consisting of three competent persons to be appointed by the probate judge. Two of such persons must have had at least two years' experience as teachers or superintendents, and have been within five years, actual teachers in the public schools. Each person so appointed shall be a legal resident of the county for which appointed. Should he remove from the county during his term, his office thereby shall be vacated and his successor be appointed. (R. S. Sec. 4069.)

Who inelig-
ible.

SECTION 7812. No examiner shall teach in, be connected with, or financially interested in any school which is not supported wholly or in part by the state, or be employed as an instructor in any teachers' institute in his own county; nor shall any person be appointed as, or exercise the office of examiner who is agent of or financially interested in any book publishing or book selling firm, company or business, or in any educational journal or magazine. If an examiner becomes connected with or interested in any school not under state control, or is employed in any such institution in

his own county, or becomes an agent of or interested in any book company or journal, or fails to hold the necessary teachers' certificate, or removes from the county, the probate judge upon being apprised of such fact, forthwith shall remove such examiner and appoint his successor. (R. S. Sec. 4069.)

Offices of county school examiner and councilman are incompatible. State v. Gard, 29 O. C. C. 426 (8 N. S. 599.)

SECTION 7813. The term of office of such examiner is three years. The term of one of the examiners shall expire on the thirty-first day of August, each year. The probate judge must revoke the appointment of any examiner, upon satisfactory proof that he is inefficient, intemperate, negligent, guilty of immoral conduct, or that he is using his office for personal or private gain. (R. S. Sec. 4069.)

Term.

SECTION 7814. When a vacancy occurs in the board, whether from expiration of the term of office, refusal to serve, or other cause, the probate judge promptly shall fill it by appointment for the full or unexpired term, and within ten days, report this to the state commissioner of common schools, together with the names of the other members of the board and the date of the expiration of their several terms of office. (R. S. Sec. 4069.)

Vacancies.

SECTION 7815. Annually, in the month of September, the board of county school examiners shall organize by choosing from its members a president, a vice-president, and a clerk. The president shall preside at all the meetings of the board. In his absence the vice president shall preside. The clerk shall keep a full and accurate record of the proceedings of the board, showing the number, date and character of each certificate issued, to whom, for what term and what branches of study, with such other statistics relating to the examination and proceedings of the board as the state commissioner of common schools requires, in the form and manner required by him, and make a report of all such items annually on or before the first day of September. (R. S. Sec. 4070.)

Organization of board; duties of officers.

SECTION 7816. The board shall make all needful rules and regulations for the proper discharge of its duties and the conduct of its work, subject to statutory provisions and the approval of the state commissioner of common schools. (R. S. Sec. 4070.)

Rules and regulations.

The prosecuting attorney is the legal adviser of county boards of examiners; see Sec. 2917.

SECTION 7817. Each board shall hold public meetings for the examination of applicants for county teachers' certificates on the first Saturday of every month of the year, unless Saturday falls on a legal holiday, in which case, it must be held on the succeeding Saturday, at such place or places within the county as, in the opinion of the board, best will accommodate the greatest number of applicants. Notice thereof shall be published in two weekly newspapers of dif-

Meetings for examinations; notice.

ferent politics printed in the county, if two papers thus are published, if not, then a publication in one only is required. In no case shall the board hold any private examination or antedate any certificate. (R. S. Sec. 4071.)

Majority's
power; ex-
amination
fees.

SECTION 7818. A majority of the board may examine applicants and grant certificates. As a condition of any applicant's being admitted to take the examination, each one shall pay to the board for the use of the county institute a fee of fifty cents. (R. S. Sec. 4071.)

It has been decided by two or more common pleas courts in Ohio, "that the examination of the candidate, and determination to grant the certificate being official acts, can only be legally performed at a session of the board duly organized, and that the whole board, as such, is to decide regarding the qualifications of each applicant to teach each branch certified to." See also case of *McCortle v. Bates*, 29 O. S., 419, as quoted in full under section 3982. All its reasoning regarding boards of education applies equally to examining boards.

Uniform
system of ex-
amination.

SECTION 7819. The questions for all county teachers' examinations, shall be prepared and printed under the direction of the state commissioner of common schools. A sufficient number of lists must be sent, under seal, to the clerks of such boards of examiners not less than five days before each examination, such seal to be broken at the time of the examination at which they are to be used, in the presence of the applicants and a majority of the members of the examining board. (R. S. Sec. 4071a.)

Divulging
school ex-
aminers'
questions.

SECTION 12939. Whoever, being a person connected with the preparation, printing, distribution or handling of questions for county teachers' examinations, makes public in any manner or gives information in regard to the nature or character of such questions, to an applicant for a certificate, or other person, prior to such examination in each branch of study respectively, or whoever is found in possession of any of such questions prior to the distribution thereof for the use of applicants at such examination, shall be fined not less than fifty dollars nor more than one hundred dollars, and imprisoned not less than thirty days nor more than ninety days. (R. S. Sec. 4071a.)

Disposition
of fees.

SECTION 7820. The clerk of the board of county school examiners must promptly collect all fees from applicants at each examination and pay them into the county treasury quarterly. He shall file with the county auditor a written statement of the amount, and the number of applicants, male and female, examined during the quarter. All money thus received, must be set apart by the auditor for the support of county teachers' institutes, to be applied as provided for in chapter eight of this title. (R. S. Sec. 4072.)

Teachers'
certificates.

SECTION 7821. County boards of school examiners may grant teachers' certificates for one, two, three, five and eight years from the day of the examination, which shall be valid in all village, township, and special school districts of the county wherein they are issued. In school districts situated in two or more counties, teachers' certificates obtained in either county shall be valid in such districts. (R. S. Sec. 4073.)

SECTION 7822. All teachers' certificates granted for one, two or three years shall be regarded as provisional certificates, and be issued and renewed only in compliance with such reasonable regulations and standards and upon such ratios as the board adopts. But when any teachers holds a two or three years' certificate, and for the last five years preceding has been continuously engaged in teaching in this state, such teacher shall be entitled to have such certificate renewed by passing an examination in theory and practice. (R. S. Sec. 4073.)

Provisional
certificates,
defined.

SECTION 7823. Applicants for five-years' or eight-years' certificates shall have had not less than forty months' experience in teaching and shall make not less than eighty-five per cent. in any branch and a general average of not less than ninety-two per cent., and such certificates shall be regarded as professional certificates. They shall be renewed without examination at the discretion of the examining board, except that no such certificate will be renewable if the holder thereof has not been actively engaged in teaching within the four years preceding. Such professional certificates shall be valid in any county in the state. (As amended May 10, 1910.)

Professional
certificates,
defined.

SECTION 7824. County boards of school examiners at their discretion may issue certificates without formal examinations to holders of certificates granted by other county and city boards of school examiners. (R. S. Sec. 4073.)

Effect of cer-
tificates of
other counties.

SECTION 7825. Each county board of school examiners may make its own regulations to grant certificates without formal examinations, except in theory and practice of teaching and in the science of education, to graduates of schools for the training of teachers, having at least a two-years' course of study in addition to graduation from a first least a four years' course of study in addition to graduation from a first grade high school. Certificates thus granted to such graduates may be issued, on application within one year after graduation, first for one year; and at their expiration, on satisfactory evidence of success in teaching, for longer terms. (R. S. Sec. 4073.)

Regulations,
as to issue of
certificates
without ex-
amination.

SECTION 7826. Between regular examinations, county boards of school examiners, at their discretion, may issue temporary certificates, which shall be valid only until the next regular examination held by such boards after the issue of such certificates. (R. S. Sec. 4073.)

Temporary
certificate.

SECTION 7827. No certificate shall be issued to any person who is less than eighteen years of age. If at any time the recipient of a certificate be found intemperate, immoral, incompetent or negligent, the examiners, or any two of them, may revoke the certificate; but such revocation shall not prevent a teacher from receiving pay for services previously rendered. Before any hearing is had

Minimum age
limit.

by a board of examiners on the question of the revocation of a teacher's certificate, the charges against the teacher must be reduced to writing and placed upon the records of the board. He shall be notified in writing as to the nature of the charges and the time set for the hearing, such notice to be served personally or at his residence; and be entitled to produce witnesses and defend himself. The examining board may send for witnesses and examine them on oath or affirmation which may be administered by any member of the board touching the matter under investigation. (R. S. Sec. 4073.)

Fees for
examiners
conducting
investigation.

SECTION 7828. The fees and the per diem of examiners for conducting such investigation at three dollars a day each and other expenses of such trial shall be certified to the county auditor by the clerk and president of the examining board and be paid out of the county treasury upon the order of the auditor. (R. S. Sec. 4973.)

No applicant who is not eighteen years of age at the time of the examination can receive a legal certificate.

The revocation of a teacher's certificate by the county school examiners for intemperance and immorality is not reviewable by the courts. Hence that board will not be compelled by mandamus to sign a bill of exceptions setting out the evidence on the trial to revoke. 1 N. P., 151.

The revocation of a certificate is not strictly a judicial proceeding. The law which clothes the boards of examiners with discretionary power, will protect them in the proper use of it. They cannot, of course, be mulcted in damages nor removed from office, for refusing to grant a certificate, nor for revoking a certificate, in the exercise of this discretion. If malice or other undue motive enter into the transaction, however, the candidate has his remedy in the courts and the probate judge may remove any member for such cause, as a malfeasance in office — an immorality — one of the causes enumerated in the law.

Notice of revocation should at least be given to the boards of education concerned. A person cannot draw pay after his certificate is revoked.

A certificate cannot be antedated. See Sec. 7817.

An official trust cannot be delegated. See III Central Law Journal, p. 472. The board has no authority, therefore, to appoint a substitute to perform the duties of any of its members. A certificate depending on the signature of such substitute for its validity, is worthless. As all citizens are bound to know the law, so candidates and school authorities are bound to know who are legal, or, at least, *de facto* public officers.

What kind of
certificates
shall be
issued.

SECTION 7829. Three kinds of teachers' certificates only shall be issued by county boards of school examiners, which shall be styled respectively "teacher's elementary school certificate," valid for all branches of study in schools below high school rank, "teacher's high school certificate," valid for all branches of study in recognized high schools and for superintendents and "teacher's special certificate," valid in schools of all grades, but only for the branch or branches of study named therein. (R. S. Sec. 4074.)

certificate a
prerequisite
to employment
of teacher.

SECTION 7830. No person shall be employed or enter upon the performance of his duties as a teacher in any elementary school supported wholly or in part by the state in any village, township or special school district who has not obtained from a board of school examiners having legal jurisdiction a certificate of good moral character; that he or she is qualified to teach orthography, reading, writing, arithmetic, English grammar and composition, geography, history of the United States, including civil government, physiology, including narcotics, literature, and that he or she possesses an adequate knowledge of the theory and practice of teaching. (R. S. Sec. 4074.)

SECTION 7831. No person shall be employed or enter upon the performance of his duties as a teacher in any recognized high school supported wholly or in part by the state in any village, township, or special school district, or act as a superintendent of schools in such district, who has not obtained from a board of examiners having legal jurisdiction a certificate of good moral character; that he or she is qualified to teach literature, general history, algebra, physics, physiology including narcotics, and, in addition thereto, four branches elected from the following branches of study: Latin, German, rhetoric, civil government, geometry, physical geography, botany, and chemistry; and that he or she possesses an adequate knowledge of the theory and practice of teaching. (R. S. Sec. 4074.)

Certificate of high school teacher and superintendent.

SECTION 7832. No person shall be employed and enter upon the performance of his duties as a special teacher of music, drawing, painting, penmanship, gymnastics, German, French, the commercial and industrial branches, or any one of them, in any elementary or high school supported wholly or in part by the state in any village, township, or special school district, who has not obtained from a board of examiners having legal jurisdiction a certificate of good moral character: that he or she is qualified to teach the special branch or branches of study, and, in addition thereto, possesses an adequate knowledge of the theory and practice of teaching. (R. S. Sec. 4074.)

Certificate of special teacher.

SECTION 7833. But no person holding a common school life certificate issued by the board of state examiners shall be required to have any other certificate to teach in the elementary schools of the state, nor be required by any board to be examined in any of the branches covered by such certificate in order to be granted the teaches' high school certificate authorized herein. (R. S. Sec. 4074.)

Recognition or renewal of certificates.

In Illinois, a certificate was not obtained till the middle of the term. A new contract was entered into at that time to pay the teacher double wages for the rest of the term. This was considered an attempt to do indirectly what there was no power to do directly; and therefore the contract was held void. 71 Ill., 532.

A person began teaching under a contract. He taught three weeks; then obtained a certificate and made a written contract to run three months from the time he began teaching. Held, that he was entitled to wages after certificate was obtained, but to no pay for the previous three weeks. 20 Minn., 72.

No money can be legally drawn for teaching a day without a certificate, and to receive public money illegally is a crime under Secs. 7780, 7820-7833.

The board of education at G., at a regular meeting, tendered C. the election as superintendent of a school in which branches other than those enumerated in the certificate issued to C. by the board of school examiners, were taught. C. accepted the employment tendered, and entered upon its duties. Held, that this constituted a valid contract, and in the absence of proof, other teachers being employed in the school, no presumption arises that C. actually taught branches not enumerated in his certificate. 12 C. C., 247.

As to penalty for bribing or attempting to bribe an officer, see Sec. 12823.

Teachers in schools at children's homes and in kindergarten schools, supported by public funds, must hold certificates.

SECTION 7834. Each member of the county board of school examiners is entitled to receive ten dollars for each examination of fifty applicants or less, fourteen dollars for each examination of more than fifty applicants and less

Compensation of board.

than one hundred, eighteen dollars for each examination of one hundred applicants and less than one hundred and fifty, twenty-two dollars for each examination of one hundred and fifty applicants and less than two hundred, and four dollars for each additional fifty applicants, or fraction thereof, to be paid out of the county treasury on the order of the county auditor. Books, blanks, and stationery required by the board shall be furnished by the county auditor. (R. S. Sec. 4075.)

Expenses of board.

SECTION 7835. Such board may contract for the use of suitable rooms in which to conduct examinations, for the printing of examination questions, may procure fuel and light, and employ janitors, to take charge of the rooms and keep them in order. Expenses so incurred, together with the cost of advertising notice of their meeting as required by law, shall be paid out of the county treasury on orders of the county auditor, who shall issue them upon the certificate of the president of the board, countersigned by the clerk. (R. S. Sec. 4075.)

Annual report of clerk; his bond.

SECTION 7836. On or before the first day of September in each year, the clerk of such board shall prepare, and forward to the state commissioner of common schools, a statement of the number of examinations held by the board, the number of applicants examined, the total number of certificates granted, and the number for each term mentioned in this chapter, the amount of fees received and paid to the county treasurer, the amounts received from the county treasury by the members of the board for their services, with such other statistics and information in relation to the duties of the board as such commissioner requires. He shall also deposit with the county auditor a bond, with surety to be approved by the auditor, in the sum of three hundred dollars, that he will pay into the county treasury, quarterly, the examination fees received by the board, and make the statistical returns required by this chapter. (R. S. Sec. 4076.)

Compensation of clerk.

SECTION 7837. The clerk shall receive for his services as clerk four dollars for each examination of sixty applicants or less, six dollars for each examination of more than sixty applicants and less than one hundred, eight dollars for each examination of one hundred applicants or more, to be paid out of the county treasury on the order of the county auditor. But no order shall be drawn for the month of August until the clerk produces a receipt from the state commissioner of common schools that he has filed all the reports for the year required by him. (R. S. Sec. 4070.)

CITY BOARD OF EXAMINERS.

City board of school examiners; appointment, term.

SECTION 7838. There shall be a city board of school examiners for each city school district, to be appointed by the board of education of the district. Such board shall consist of three persons. The majority of those appointed

must have had at least two years' practical experience in teaching in the public schools. All persons appointed shall be otherwise competent for the position and residents of the district for which appointed. The term of office of such examiners shall be three years; the term of one-third of them to expire on the thirty-first day of August, each year. (R. S. Sec. 4077.)

SECTION 7839. The board of education may revoke any appointment upon satisfactory proof that the appointee is inefficient, intemperate, negligent, or guilty of immoral conduct. When a vacancy occurs in the board, whether from expiration of term of office, refusal to serve, or other cause, the board shall fill it by appointment for the full or unexpired term, as the case demands. Within ten days after an appointment, the clerk of the board must report to the state commissioner of common schools the name of the appointee, and whether the appointment is for a full or an unexpired term. (R. S. Sec. 4077.)

Removals and
vacancies.

SECTION 7840. Each city board of school examiners shall determine the standard of qualification for teachers, and may examine any school in the district when such examination is deemed necessary to ascertain a teacher's qualifications. But in the examination of applicants and the granting of certificates the board must be governed by the provisions of this chapter relating thereto. (R. S. Sec. 4078.)

Standard of
qualification
for teachers.

SECTION 7841. To secure a thorough examination of applicants in difficult branches, or special studies, the board may secure the temporary assistance of persons of sufficient knowledge in such branches or studies, who must promise on oath or affirmation, to be administered by the clerk of the board of examiners, to perform the duties of examiner faithfully and impartially. Superintendents of schools shall give to the board all necessary information in reference to branches and special studies to be taught, and the branches of study and grades of school which teachers will be required to teach. (R. S. Sec. 4078.)

Special
examiners.

An expert secured by the board to conduct examinations in any particular branch should certify the result of the examination to the board; all certificates should be signed by members of the board and by such members only.

SECTION 7842. Each city board of school examiners must organize during the month of September each year by choosing from its members a president, vice-president, and clerk. The president shall preside at all the meetings of the board, and in his absence the vice-president shall preside. The clerk shall perform all the duties required in this chapter of the clerk of the board of county school examiners in so far as such duties apply. He also must give bond, in the sum of three hundred dollars with surety to be approved by the board of education, conditioned that he will perform faithfully the duties required of him by

Organization
of board;
duties of
officers;
clerk's bond.

this chapter, which bond shall be deposited with the clerk of such board. (R. S. Sec. 4079.)

Meetings for
examination;
notice.

SECTION 7843. Each board of city school examiners shall hold not less than two meetings each year, notice of which must be published in some newspaper of general circulation in the district. All examinations of applicants shall be conducted at the meetings of the boards thus called. The examination of every applicant must be in the presence of at least two members of the board. (R. S. Sec. 4080.)

Certificates.

SECTION 7844. Each city board of school examiners may grant teachers' certificates for one, two, three, five and eight years from the day of examination, which shall be valid within the district wherein they are issued. But certificates granted for one, two or three years must be regarded as provisional certificates and shall be issued and renewed only in compliance with such reasonable regulations and standards and upon such ratios as the board may adopt. (R. S. Sec. 4081.)

Renewal of
certificates.

SECTION 7845. When a teacher holds a two or three year certificate and has for the last five years preceding been continuously engaged in teaching in this state such teacher will be entitled to have such certificate renewed by passing an examination in theory and practice. (R. S. Sec. 4081.)

Professional
certificates.

SECTION 7846. Applicants for five-years' and eight-years' certificates shall have had not less than forty months' experience in teaching and shall make not less than eighty-five per cent. in any branch and a general average of not less than ninety-two per cent., and such certificates shall be regarded as professional certificates and be renewed without examination at the discretion of the examining board, except that no such certificate will be renewable if the holder has not been actively engaged in teaching within the four years preceding. (As amended May 10, 1910.)

Validity of
professional
certificates.

SECTION 7847. Such professional certificates shall be valid in any city in the state. City boards of school examiners at their discretion may issue certificates without formal examinations to holders of certificates granted by other city and county boards of school examiners. (R. S. Sec. 4081.)

Regulations, as
to granting
certificates
without ex-
aminations.

SECTION 7848. Each city board of school examiners may make its own regulations to grant certificates without formal examinations, except in theory and practice of teaching and in the science of education, to graduates of schools for the training of teachers, that have at least a two-years' course of study in addition to graduation from a first grade high school and of colleges or universities, having at least a four-years' course of study in addition to graduation from a first grade high school, as may be approved by them. Certificates thus granted to such gradu-

ates may be issued, on application within one year after graduation, first for one year; and at their expiration, on satisfactory evidence of success in teaching, for longer terms. (R. S. Sec. 4081.)

SECTION 7849. Between regular examinations, city boards of school examiners, at their discretion, may issue temporary certificates, which shall be valid only until the next regular examination held by the board after the issue thereof. (R. S. Sec. 4081.)

Temporary
certificates.

SECTION 7850. No certificates shall be issued to any person who is less than eighteen years of age, and if at any time the recipient of a certificate be found intemperate, immoral, incompetent, or negligent, the examiners, or any two of them, may revoke the certificate. But such revocation shall not prevent a teacher from receiving pay for services previously rendered. Before any hearing is had by a board of examiners on the question of the revocation of a teacher's certificate, the charges against the teacher must be reduced to writing and placed upon the records of the board. He shall be notified in writing as to the nature of the charges and the time and place set for the hearing. Such notice must be served either personally or at his residence. He shall be entitled to produce witnesses and defend himself. The examining board may send for witnesses and examine them on oath touching the matter under investigation, which oath or affirmation may be administered by any member of the board. (R. S. Sec. 4081.)

Minimum age
limit; revoca-
tion of certi-
cate.

SECTION 7851. The fees and the per diem of examiners for conducting such investigation, at three dollars a day each, and other expenses of such trial shall be certified to the city auditor by the clerk and president of the examining board, and be paid out of the city treasury upon the order of the city auditor. (R. S. Sec. 4081.)

Fees for
examiners
conducting in-
vestigation.

SECTION 7852. The provisions of this chapter relating to the kinds of certificates authorized to be issued by the county boards of school examiners for teachers in elementary schools, high schools, and for superintendents shall apply to city boards of school examiners; except that city boards, in their discretion, may require teachers in elementary schools to be examined in drawing, music, or German if such subjects are a part of the regular work of such teachers. (R. S. Sec. 4082.)

Kind of cer-
tificates au-
thorized to be
issued; pro-
viso.

SECTION 7853. Each city board of education shall fix the compensation of the members of the city board of school examiners, the additional compensation of the clerk, and the person or persons called to their assistance, furnish the necessary books, blanks and stationery for their use, designate a school building within the district in which they shall conduct examinations and cause such building to be lighted and heated if necessary. Such compensation,

Compensation
of members
and clerk;
incidental
expenses.

and the incidental expenses incurred on account of the board of examiners, shall be paid, by order of the board of education, from the contingent fund of the district. (R. S. Sec. 4083.)

Duties of clerk of city board of school examiners.

SECTION 7854. The clerk of the city board of school examiners shall keep a record of its proceedings, and such statistics as the state commissioner of common schools requires, in the form and manner he requires, and report such statistics to him annually, on or before the first day of September. (R. S. Sec. 4084.)

Disposition of examination fees.

SECTION 7855. Such clerk shall pay the examination fees received by him to the treasurer of the district within ten days after each meeting, and at the same time file with the clerk of the board of education a written statement of the amount, also a statement of the number of applicants, male and female, examined, the number of certificates granted, and for what terms. Fees paid to the treasurer of the district shall be applied to the support of teachers' institutes, as provided in chapter eight. (R. S. Sec. 4084.)

Consideration of applicants' answers; issue of certificates or notice of failure.

SECTION 7856. All manuscripts filed as answers to questions propounded to any applicant appearing before any county or city board of school examiners, shall be promptly considered and passed upon by that board together with the results of oral tests, if any, and such other information as comes to it touching the fitness of any applicant for teaching in the public schools. The board shall promptly issue all certificates granted to successful applicants and send notices of failure to those who fail in the examination, if such there be. (R. S. Sec. 4085.)

Manuscripts to be placed on file.

SECTION 7857. All such manuscripts shall be kept on file for sixty days by the members of the examining board propounding the questions. If, within the sixty days, any applicant after receiving his returns from the examination has cause to and does believe that he has been discriminated against and his manuscript unfairly graded, he may review his manuscripts with the member or members of the board having them in charge. If after such inspection and review, he is still of the opinion that the board will not correct the error, if any, and issue his certificate, he may appeal his case to the state commissioner of common schools for final review. (R. S. Sec. 4085.)

Right of appeal.

Applicant's right of appeal.

SECTION 7858. Such appeal shall be in the form of an affidavit setting forth the facts as he believes them accompanied by a fee of one dollar to cover the expenses incident thereto, and requesting that the matter be inquired into. Thereupon such commissioner shall require the clerk of such board to procure and forward such manuscripts, together with a full explanation of the reasons for the board's action. Upon his examination of all the facts, together with the manuscripts, if he finds that the applicant was denied a certificate when he should have been granted

one and has been discriminated against by the board, he shall order it forthwith to issue a certificate of the date of the examination attended by the applicant, and indicate the length of time such certificate shall be valid. If, upon inspection of the manuscript and reviewing the facts submitted, the commissioner concludes that no injustice has been done, he shall so notify the applicant and the clerk of the board of examiners. (R. S. Sec. 4085.)

(House Bill No. 47.)

To provide for certification of teachers in the public schools.

Be it enacted by the General Assembly of the State of Ohio :

7858-1. SECTION 1. That the diploma of any normal school, teachers' college, college or university, approved by the state commissioner of common schools, shall entitle the holder thereof, when he or she has successfully passed the examination provided in section 5 of this act, to a provisional elementary school certificate valid for four years in any school district in Ohio; provided said diploma is granted only to such students as have taken a full two-year academic and professional course, entrance to which shall require graduation from a high school of the first grade, or its equivalent which shall be determined in such manner as the state commissioner of common schools may direct.

7858-2. SECTION 2. That the diploma of a graduate of any normal school, teachers' college, college or university approved by the state commissioner of common schools, shall entitle the holder thereof, when he or she has successfully passed the examination provided in section 5 of this act, to a provisional high school certificate valid for four years in any school district in Ohio; provided said diploma is granted only to such students as have taken a full four years' academic and professional course, entrance to which shall require graduation from a high school of the first grade, or its equivalent which shall be determined in such manner as the state commissioner of common schools may direct.

7858-3. SECTION 3. The two-year and four-year courses referred to herein shall include actual teaching under supervision in a training school, including elementary or secondary grades, as the case may be, and shall be approved by the State Commissioner of Common Schools.

7858-4. SECTION 4. The diploma or certificate of proficiency issued, by any of the institutions named in section 1, to students having completed a special course, with training school experience, in music, drawing, penmanship, manual training, physical culture, domestic science, kindergartening, German, or such other studies as, by law or custom, are required as subjects of instruction by special teachers or supervisors shall entitle the holder thereof, when he or she has successfully passed the examina-

ation provided in section 5 of this act, to a special certificate valid for four years in any school district in Ohio; provided that no such diploma or certificate shall be issued to any one not having at least two years of academic and professional training beyond graduation from a high school of the first grade, or its equivalent which shall be determined in such manner as the state commissioner of common schools may direct.

7858-5. SECTION 5. When any holder of a diploma as provided in sections 1, 2 and 4 of this act makes application to a board of county examiners for a certificate under this act, said applicant shall pay a fee of one dollar and fifty cents to the clerk of the board of county examiners, fifty cents of said fee to be paid into the institute fund of the county in which the applicant writes the examination and one dollar of it to be forwarded to the state commissioner of common schools to be used in defraying the expenses of grading the manuscripts of the said applicant who shall pay the same into the state treasury to the credit of the general revenue fund. The board of county examiners shall collect the manuscripts as the applicants complete them, and at the close of the examination, in the presence of the applicant, shall enclose them in an envelope provided for that purpose, seal and forward them to the state commissioner of common schools; who within thirty days from the time of receiving the manuscripts shall cause them to be graded. The state commissioner of common schools shall forward the result of such grading to the applicant and to the clerk of the board of county examiners. If such applicant has successfully passed the examination, with such grades as the state commissioner of common schools may require, then the commissioner shall forward to the clerk of the board of county examiners a certificate to be countersigned by said board of county examiners duly made out for and in the name of the applicant, and said certificate shall be valid in any school district of the state, as provided in sections 1, 2 and 4 of this act. The time of holding such examinations and the list of questions submitted shall be the same as provided for in sections 7817 and 7819 of the General Code.

7858-6. SECTION 6. It shall be the duty of the State Board of School Examiners to issue to every holder of a provisional certificate as herein described, a life certificate of similar kind, upon satisfactory evidence that the holder thereof has taught successfully at least twenty-four months. In addition, applicants for common school certificates shall be examined in Theory and Practice of Teaching. Applicants for High School certificates shall be examined in Theory and Practice of Teaching, History of Education and Science of Education. Applicants for special certificates shall be examined in Theory and Practice of Teaching and in the Special Branch. The applicant shall pay the usual examination fee.

7858-7. SECTION 7. It shall be the duty of the State Board of School Examiners to issue to every holder of a professional certificate, issued by a city or county board of examiners, a life certificate of similar kind, upon satisfactory evidence that the holder thereof has taught successfully at least ten years. In addition, applicants for common school certificates shall be examined in Theory and Practice of Teaching. Applicants for High School certificates shall be examined in Theory and Practice of Teaching, History of Education and Science of Education. Applicants for special certificates shall be examined in Theory and Practice of Teaching and in the Special Branch. The applicant shall pay the usual examination fee.

GRANVILLE W. MOONEY,

Speaker of the House of Representatives.

FRANCIS W. TREADWAY,

President of the Senate.

Passed May 10, 1910.

Approved May 19, 1910.

JUDSON HARMON, *Governor.*

CHAPTER 8.

TEACHERS' INSTITUTES.

SECTION	COUNTY INSTITUTE.	SECTION	CITY INSTITUTE.
7859.	Organization of county teachers' institutes.	7869.	Teachers may dismiss school to attend institute.
7860.	Officers; term.	7870.	Pay for attending institute.
7861.	When election to be held.		
7862.	Vacancies.		
7863.	Duty of executive committee; bond.		
7864.	Payment of institute fund to committee.		
7865.	Report of secretary.		
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7867.	Forfeiture of committee's bond.		
7868.	When school commissioner may hold institute.		

COUNTY INSTITUTE.

SECTION 7859. A teachers' institute may be organized in any county, by the association of not less than thirty practical teachers of the common schools residing therein, who must declare their intention in writing to attend such institute, the purpose of which shall be the improvement of such teachers in their profession. (R. S. Sec. 4086.)

SECTION 7860. Such institute, annually, shall elect by ballot, a president, secretary, and one member of an executive committee, to serve for a term of three years; except, that at the first annual election held after the organization of an institute, three members of the executive committee must be elected. The one receiving the highest number of votes shall serve three years; the one receiving the next highest number, two years; and the one receiving the next highest number one year. The president and secretary of the institute shall be ex-officio members of the executive committee and act as chairman and secretary thereof. (R. S. Sec. 4086.)

Since the president and secretary of the institute are ex-officio members of the executive committee, the other members of the committee alone cannot lawfully organize the committee. The president of the institute is chairman of the committee and the secretary of the institute is secretary of the committee.

Sec. 2457. The commissioners of the several counties of the state may receive bequests, donations and gifts of real and personal property and money to promote and advance the cause of education in their respective counties: a part may be used to defray the expenses of the teachers' institute, each year.

The purpose of a teachers' institute being the improvement of the teachers entitled to its privileges in their profession, it clearly follows that the instruction given therein should be mainly upon methods of teaching and the management of schools.

SECTION 7861. Such election of officers shall be held during the session of such institute and at a time fixed by the executive committee thereof. At least three days' notice of the election must be given the members of such institute by posting conspicuously in the room, where the institute is held, a notice of the time and place of holding it, and of the officers to be voted for. (R. S. Sec. 4086.)

SECTION 7862. A vacancy in the office of president, secretary, or member of the executive committee caused by death, resignation, removal from the county or other cause, may be filled by the executive committee, the person elected to serve until the next annual meeting of the institute. (R. S. Sec. 4086.)

Vacancies.

SECTION 7863. Such executive committee shall manage the affairs of the institute. The committee must enter into a bond, payable to the state, with sufficient surety, to be approved by the county auditor, in double the amount of the institute fund in the county treasury, for the benefit of the institute fund of the county, and conditioned that the committee shall account faithfully for the money which comes into its possession, and make the report to the commissioner of common schools, required in section seventy-eight hundred and sixty-five. (R. S. Sec. 4086.)

Duty of executive committee; bond.

SECTION 7864. The declaration and bond shall be filed with the county auditor. Thereupon he shall give to the institute committee an order on the county treasury for the amount of the institute fund in the treasury. Any portion of the fund not disbursed by the committee must be returned to the county treasury, on the certificate of the county auditor. (R. S. Sec. 4087.)

Payment of institute fund to committee.

SECTION 7865. Within five days after the adjournment of the institute, its secretary shall report to the state commissioner of common schools the number of teachers in attendance, the names of instructors and lecturers attending, the amount of money received and disbursed by the committee and such other information relating to the institute as the commissioner requires. (R. S. Sec. 4088.)

Report of secretary.

Blanks for reports are sent to the county auditor for distribution.

SECTION 7866. The secretary may be allowed compensation not to exceed ten dollars for making such report and for his services as secretary, to be paid out of the institute fund of the county. No other compensation shall be allowed any officer or member of the executive committee. On failure to make such report, the secretary shall forfeit and pay to the state the sum of fifty dollars. (R. S. Sec. 4088.)

His compensation.

SECTION 7867. Upon the forfeiture of the committee's bond, the prosecuting attorney of the county shall prosecute an action thereon, in the name of the state, and collect any money which the committee failed to disburse according to law, and any penalty to which it may be liable under this chapter, and pay it into the county treasury, to the credit of the institute fund. (R. S. Sec. 4089.)

Forfeiture of committee's bond.

SECTION 7868. When a teachers' institute has not been held in a county within two years, the commissioner of common schools may hold or cause such institute to be held therein. The management thereof, and all pro-

When school commissioner may hold institute.

ceedings in relation thereto, shall be the same as hereinbefore provided, except that the written declaration required shall not be necessary. (R. S. Sec. 4090.)

Teachers may
dismiss school
to attend
institute.

SECTION 7869. All teachers and superintendents of the public schools within any county in which a county institute is held while the schools are in session, may dismiss their schools for one week for the purpose of attending such institute. (R. S. Sec. 4091.)

Pay for
attending
institute.

SECTION 7870. The boards of education of all school districts are required to pay the teachers and superintendents of their respective districts their regular salary for the week they attend the institute upon the teachers or superintendents presenting certificates of full regular daily attendance, signed by the president and secretary of such institute. If the institute is held when the public schools are not in session, such teachers or superintendents shall be paid two dollars a day for actual daily attendance as certified by the president and secretary of such institute, for not less than four, nor more than six days of actual attendance, to be paid as an addition to the first month's salary after the institute, by the board of education by which such teacher or superintendent is then employed. In case he or she is unemployed at the time of the institute, such salary shall be paid by the board next employing such teacher or superintendent, if the term of employment begins within three months after the institute closes. R. S. Sec. 4091.)

Stipulation denying teacher compensation for teacher's institute void.
30 O. C. C., 411 (11 N. S. 103.)
Beverstock v. Bd. of Ed., 75 O. S., 144.
Reid v. Muhlenberg Tp. (Bd. of Ed.) 16 O. D. N. P., 414.

CITY INSTITUTE.

Institutes for
city districts.

SECTION 7871. The board of education of each city school district may provide for holding an institute yearly for the improvement of the teachers of the common schools therein. General meetings of the teachers of a city district held upon not less than four days in any year, whether consecutive days or not, for the purposes of instruction, shall constitute a teachers' institute for a city district within the meaning of this section. (R. S. Sec. 4092.)

Expenses of,
how provided
for.

SECTION 7872. The expenses of such institute shall be paid from the city institute fund hereinbefore provided for. In addition to this fund the board of education of any district annually may expend for the instruction of the teachers thereof, in an institute or in such other manner as it prescribes, a sum not to exceed five hundred dollars, to be paid from its contingent fund. (R. S. Sec. 4092.)

When city
fund to be
paid into
county fund.

SECTION 7873. If the board of a district does not provide for such institute in any year, it shall cause the institute fund in the hands of the district treasurer for the year to be paid to the treasurer of the county wherein the district is situated, who shall place it to the credit of the

county institute fund. The teachers of the schools of such district in such case, shall be entitled to the advantages of the county institute, subject to the provisions of sections seventy-eight hundred and sixty-nine, and seventy-eight hundred and seventy. The clerk of the board shall make the report of the institute required by the next following section. (R. S. Sec. 4092.)

SECTION 7874. All institutes held under the provisions of this chapter shall continue at least four days. A report of the institute held in pursuance of the provisions of sections seventy-eight hundred and seventy-one and seventy-eight hundred and seventy-two shall be made to the state commissioner of common schools within five days after the adjournment thereof. It must state the number of teachers in attendance, the names of the instructors and lecturers, the total expenses of the institute, the portion thereof paid from the institute funds, and such other information relating to the institute as the commissioner requires. (R. S. Sec. 4094.)

Length of
session; report
to state com-
missioner.

CHAPTER 9.

TEACHERS' PENSIONS.

SECTION

7875. Trustees of school-teachers' pension fund.
 7876. Election of board of trustees.
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 7880. Retirement and pension of teachers.
 7881. Meaning of term "teacher."
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SECTION

7886. Use of principal and income.
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 7892. Heirs, legatees or assigns of deceased teacher entitled to half amount paid.
 7893. Rules and regulations.
 7894. Monthly payments to be made by board.
 7895. Payments from contingent fund.
 7896. Transfer of existing funds.

Trustees of school teachers' pension fund.

SECTION 7875. When the board of education of a school district by resolution, adopted by a majority vote of the members thereof, declares that it is advisable to create a school-teachers' pension fund for that school district, such fund shall be under the management and control of a board to be known as "the board of trustees of the school-teachers' pension fund" for such district. Such board shall be composed of not less than three, nor more than seven members, as the board of education by resolution declares. If composed of less than five a member of the board of trustees of such pension fund shall be elected by the board of education of such school district, and the remaining members by the teachers of the public schools, including the teachers of any high schools, of such district, who have accepted the provisions hereinafter provided. If such board is to be composed of five or more members, two members of the board of trustees of such school district shall be elected by the board of education thereof, and the remaining members by the teachers of the public schools, including the teachers of any high school schools of such school district, who have accepted such provisions. (R. S. Sec. 3897b.)

Election of board of trustees.

SECTION 7876. The election of the members of such board by the teachers shall be at a meeting called by the superintendent of schools of such school district, the first election to be at a meeting to be called by the superintendent when one-third of the public school teachers of such school district have accepted the provisions of this chapter. Members of the board of trustees of such pension fund shall be elected for such length of time as the board of education of the school district by resolution declares, to serve not less than one, nor more than three years. They shall serve until their successors are elected and qualified, and without compensation. (R. S. Sec. 3897b.)

How fund created and invested.

SECTION 7877. When the board of education of any school district has declared the advisability of creating a

school-teachers' pension fund, its clerk shall notify each teacher in the public schools and high schools, if any, of the school district, by notice in writing of the passage of such resolution, and require the teachers to notify the board in writing within thirty days from the date of such notice whether they consent or decline to accept the provisions of law for creating such a fund. After the election of the board of trustees herein provided for, two dollars shall be deducted by the proper officers from the monthly salary of each teacher who accepted such provisions, and from the salary of new teachers who afterward accept them, such sum to be paid into and applied to the credit of such pension fund, and shall continue so to deduct that sum during the term of service of such teacher. (R. S. Sec. 3897c.)

Held to create a mutual contract in the nature of insurance; hence all terms should be given a fair interpretation, without favor, and where one does not come within the express terms there is no reason to strain them to include him. 7 O. C. C., N. S. 337.

SECTION 7878. All teachers hereafter appointed in such public schools, or high schools, if any, in such school district, within thirty days after their appointment, shall be notified by the clerk of such board of education of the election of the board of trustees of such school-teachers' pension fund, and within six months thereafter be required to notify the board of education whether they consent or decline to accept the provisions of law therefor. All moneys received from donations, legacies, gifts, bequests or from any other source shall also be paid into such fund, or into a permanent fund. If paid into a permanent fund, only the interest thereof shall be applied to the payment of pensions. (R. S. Sec. 3897c.)

Notice to
teachers;
acceptance

SECTION 7879. Such board of trustees may invest such pension fund in the name of the board in bonds of the United States, or of the state of Ohio, or of any county, or municipal corporation, or school district in this state; and may make payments from such fund for pensions granted in pursuance of the laws relating thereto. The board of trustees from time to time also may make and establish such rules and regulations for the administration of the fund as they deem best. (R. S. Sec. 3897c.)

Investment of
funds; pay-
ment of
pensions.

SECTION 7880. Such board of education of such school district, and a union, or other separate board, if any, having the control and management of the high schools of such district, may each by a majority vote of all the members composing the board on account of physical or mental disability, retire any male or female teacher under such board who has taught for a period aggregating twenty years. One-half of such period of service must have been rendered by such beneficiary in the public schools or high schools of such school district, or in the public schools or high schools of the county in which it is located, and the remaining one-half in the public schools of this state or elsewhere. (R. S. Sec. 3897d, as amended May 10, 1910.)

Retirement
and pension
of teachers.

Meaning of
term "teacher".

SECTION 7881. The term "teacher" in this chapter, shall include all teachers regularly employed by either of such boards in the day schools, including the superintendent of schools, all superintendents of instruction, principals, and special teachers, but in estimating years of service, only service in public day schools or day high schools, supported in whole or in part by public taxation, shall be considered. (R. S. Sec. 3897d.)

Teachers
entitled to
pension.

SECTION 7882. Any teacher may retire and become a beneficiary under this chapter who has taught for a period aggregating thirty years. But one-half of such term of service must have been rendered in the public schools or in the high schools of such school district, or in the public schools or high schools of the county in which the district is located, and the remaining one-half in the public schools of this state or elsewhere. (R. S. Sec. 3897d, as amended May 10, 1910.)

Amount of
pension.

SECTION 7883. Each teacher so retired or retiring shall be entitled during the remainder of his or her natural life to receive as pension, annually, twelve dollars and fifty cents for each year of service as teacher, except that in no event shall the pension paid to a teacher exceed four hundred and fifty dollars in any one year. Such pensions shall be paid monthly during the school year. (R. S. Sec. 3897d, as amended May 10, 1910.)

Who not en-
titled to pen-
sion.

SECTION 7884. No such pension shall be paid until the teacher contributes, or has contributed, to such fund a sum equal to twenty dollars a year for each year of service rendered as teacher, but which sum shall not exceed six hundred dollars. Should any teacher retiring be unable to pay the full amount of this sum before receiving a pension, in paying the annual pension to such retiring teacher, the board of trustees must withhold on each month's payment twenty per cent. thereof, until the amount above provided has been thus contributed to the fund. (R. S. Sec. 3897d.)

How, when
fund insuf-
ficient to pay
pensions.

SECTION 7885. If such pension fund at any time be insufficient to meet the pensions so provided for, during the period it is insufficient to make such payment, the amount in such fund shall be prorated between the parties entitled thereto. (R. S. Sec. 3897d.)

Use of prin-
cipal and
income.

SECTION 7886. Such board of trustees may use both the principal and income of such fund for the payment of the premiums herein provided for, and the expense thereof, but this shall not apply to the principal of moneys received from donations, legacies, gifts, bequests, or other such sources. (R. S. Sec. 3897e.)

Pension ex-
empt.

SECTION 7887. Before its distribution and payment by the board of trustees to the beneficiaries, no part of such pension fund shall be liable to be taken or subjected by any writ or legal process against the beneficiary. (R. S. Sec. 3897e.)

SECTION 7888. The clerk of the board of education of such school district, and the clerk of the union board of high schools, or other separate board having the control and management of the high schools of the district, if any, each shall certify monthly to such board of trustees all amounts deducted from the salaries of the teachers as above provided, which amounts, as well as all other moneys contributed to such fund, must be set apart as a special fund for the purposes herein specified, subject to the order of the board of trustees. Moneys belonging to such fund shall be paid only on the order of such board, entered upon its minutes on warrants signed by its president and secretary. (R. S. Sec. 3897f.)

Monthly certifications of deductions from salaries.

SECTION 7889. The treasurer of such school district shall be the custodian of such pension fund, and keep it subject to the order, control and direction of the board of trustees. He must keep books of accounts concerning the fund in such manner as may be prescribed by such board which always shall be subject to the inspection of the board of trustees or of any member thereof. Such treasurer shall execute a bond to the board of trustees with good and sufficient sureties in such sum as the board requires, which bond shall be subject to its approval, and be conditioned for the faithful performance of his duties as custodian and treasurer of the board. (R. S. Sec. 3897g.)

Who custodian of fund.

SECTION 7890. Such treasurer must keep and truly account for all moneys and profits coming into his hands, belonging to such fund, and at the expiration of his term of office pay over, surrender and deliver to his successor all securities, moneys and other property of whatsoever kind, nature and description in his hands or under his control as treasurer. For his services he shall be paid not to exceed one per cent. annually of the amount paid into the fund during the year. (R. S. Sec. 3897g.)

Duties.

SECTION 7891. A teacher who resigns or is removed for cause, upon application within three months after such resignation or removal takes effect, shall be entitled to receive half of the total amount paid by such teacher into such fund. (R. S. Sec. 3897h.)

Rebate in case of resignation or removal.

SECTION 7892. In case of the death of a teacher, the heirs, legatees or assigns of the deceased, shall be entitled to receive half of the total amount paid by such teacher into such fund upon application therefor, with proof of claim to the satisfaction of the board of trustees. (R. S. Sec. 3897h.)

Heirs, legatees or assigns of deceased teacher entitled to half amount paid.

SECTION 7893. The board of trustees shall make such rules and regulations as it may deem expedient or necessary for its government; which must be adopted, and when adopted, may be amended, by a vote of not less than two-thirds of all the members of the board. (R. S. Sec. 3897i.)

Rules and regulations.

Monthly payments to be made by board.

SECTION 7894. The board of education in any school district which has created, or shall create, a teachers' pension fund, shall pay monthly into such fund all deductions from the salaries of teachers on account of their tardiness or absence. (R. S. Sec. 3897k.)

Payments from contingent fund.

SECTION 7895. The board of education in any school district which has created, or shall create, a teacher's pension fund, semi-annually, shall pay from the contingent fund of such school district into such fund, not less than one per cent. nor more than two per cent. of the gross receipts of the board raised by taxation, which shall be applied to the payment of teachers' pensions, as hereinbefore provided. (R. S. Sec. 3897l.)

Transfer of existing funds.

SECTION 7896. Upon the election and organization of a board of pension trustees under this chapter in any school district, any school teachers' pension fund heretofore created for such district under any former act shall be transferred to the board of trustees created under this chapter by the board or persons having control thereof. Beneficiaries under such transferred fund shall receive pensions under this chapter. (R. S. Sec. 3897j.)

CHAPTER 10.

NORMAL SCHOOLS.

SECTION

7897. State normal schools; location.
7898. Maintenance, control, instruction.
7899. Local tax to aid such school.

SECTION

7900. Question to be submitted to vote.
7901. When another election may be held.

SECTION 7897. There are hereby created and established two state normal schools to be located as follows: One in connection with the Ohio university, at Athens, and one in connection with the Miami university, at Oxford. (95 v. 45 § 1.)

State normal
schools;
location.

SECTION 7898. Boards of trustees of such universities shall maintain at their respective institutions a normal school which shall be co-ordinate with existing courses of instruction, and be maintained in such a state of efficiency as to provide proper theoretical and practical training for all students desiring to prepare themselves for the work of teaching. Such normal schools, in each case shall be under the general charge and management of the respective boards of trustees of such universities. (95 v. 45 § 2.)

Maintenance,
control,
instruction.

SECTION 7899. The trustees of any township in this state, in which a normal school is organized and conducted, annually may levy a tax, not exceeding two mills on the dollar upon all the taxable property of the township for the purpose of aiding in the support of such normal school. (97 v. 389 § 1.)

Local tax
to aid such
school.

SECTION 7900. Before the tax can be levied, the question of making a levy for such purpose, shall be submitted to the qualified electors of the township, at a special or general election to be held therein, due notice of which must be given at least twenty days prior to the election, by publication in some newspaper of general circulation in the township. If a majority of the votes cast at such election upon the question of tax levy is in favor of levying a tax, then the trustees of the township thereafter annually shall make the levy and report it to the county auditor for collection as other taxes to be paid over, when collected, to the duly qualified and acting treasurer of the board of trustees of such normal school. (97 v. 389 § 2.)

Question to
be submitted
to vote.

SECTION 7901. At any time after four years from the date of such an election, another election may be petitioned for and shall be ordered by the trustees of the township, if the petition be signed by at least forty per cent. of the qualified electors of the township. (97 v. 389 § 3.)

When another
election may
be held.

(House Bill No. 44.)

AN ACT

To provide for the appointment of a commission to establish two normal schools and to provide for the maintenance thereof.

Be it enacted by the General Assembly of the State of Ohio:

SECTION 1. That the normal school system of the State of Ohio created and established by Chapter Ten of the General Code, be extended by the creation and establishment of two additional state normal schools, one in Northeastern Ohio and one in Northwestern Ohio, to be so located as to afford the best opportunity possible for all the people to obtain the benefits and advantages to be derived from teachers trained both theoretically and practically. Neither of such schools shall be located in any city or village which now has a college located therein.

SECTION 2. Within thirty days after the passage of this act the Governor shall appoint a commission composed of five persons, not more than three of whom shall be from any one political party, and no one of whom shall be personally or financially interested in any site determined upon by said commission. Said appointees shall constitute a commission with full power and authority to select suitable locations, lands, or lands and buildings and secure options on the same as said commission may find necessary for the establishment of said Normal Schools and upon such terms and conditions as said commission may deem to be for the best interests of the state and submit a report of their proceedings to the Governor for his approval on or before the first day of December, 1910. The members of said commission shall serve without compensation but shall be paid their reasonable and necessary expenses while in the discharge of their official duties and shall serve until the appointment and organization of the boards of trustees, hereinafter provided.

SECTION 3. As soon thereafter as the General Assembly shall appropriate a sufficient amount of money for the purchase of said sites and the erection of suitable buildings thereon, the Governor shall appoint by and with the advice and consent of the Senate five competent persons who shall constitute a Board of Trustees for the proposed Normal School in the Northeastern portion of Ohio and five other competent persons who shall constitute a Board of Trustees for the proposed Normal School in the Northwestern portion of Ohio.

SECTION 4. Each board of trustees shall organize immediately after its appointment by the election from its members of a president, a secretary and a treasurer. The treasurer, before entering upon the discharge of his duties shall give bond to the State of Ohio for the faithful performance of his duties, and the proper accounting for all moneys coming into his care. The amount of said bond

shall be determined by the trustees, but shall not be for a less sum than the estimated amount which may come into his control at any one time. Said bond shall be approved by the Attorney General.

Before adopting plans for the buildings of said Normal Schools each board shall elect a president of known ability for the school under its control, who shall have advisory power in determining said plans. In planning said buildings, ample provisions shall be made for the establishment of a well equipped department for the preparation of teachers in the subject of agriculture.

The boards of trustees in connection with the presidents of the Normal Schools shall select and appoint an able and efficient corps of instructors for the said schools, provide a suitable course of study for the theoretical and practical training of students who desire to prepare themselves for the work of teaching, fix rates of tuition and provide proper equipment.

Said boards shall proceed without unnecessary delay to purchase said selected sites, lands and buildings, as the case may be, and erect thereon suitable and substantial buildings or enlarge, reconstruct or properly repair in a suitable and substantial manner such building or buildings, if any there be, and complete said buildings as soon as conditions will permit. And said board of trustees shall do any and all things necessary for the proper maintenance and successful and continuous operation of said Normal Schools and may receive donations of lands and moneys for the purposes of said Normal Schools.

The Governor when appointing said board of trustees shall designate one member of each board to serve one year, one to serve two years, and one to serve three years, one to serve four years and one to serve five years and thereafter one trustee for each board shall be appointed annually for five years for the control and management of said Normal Schools. They shall serve without compensation other than their reasonable and necessary expenses while engaged in the discharge of their official duties. Not more than three members of each board shall be selected from any one political party.

SECTION 5. The Governor shall have power to remove for just cause any appointees herein named, when, in his judgment, he deems it necessary, and shall fill all vacancies that may occur.

SECTION 6. The said Normal Schools shall be supported by such sums and in such manner as the General Assembly may from time to time provide.

GRANVILLE W. MOONEY,

Speaker of the House of Representatives.

FRANCIS W. TREADWAY,

President of the Senate.

Passed May 10, 1910.

Approved May 19, 1910.

JUDSON HARMON, *Governor.*

CHAPTER 11.

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MUNICIPAL UNIVERSITIES, ETC.

SECTION 7902. As to all matters not herein or otherwise provided by law, the board of directors of a municipal university, college or institution, shall have all the authority, power and control vested in or belonging to such municipal corporation as to the management and control

Powers of
board of
directors.

of the estate, property and funds, given, transferred, covenanted, or pledged to such corporation for the trusts and purposes relating thereto, and the government, conduct and control of such university, college or institution. It may appoint a clerk and all agents proper and necessary for the care and administration of the trust property, and the collection of the income, rents, and profits thereof; appoint the president, professors, tutors, instructors, agents and servants necessary and proper for such university, college or institution, and fix their compensation; provide all the necessary buildings, books, apparatus, means and appliances, and pass such by-laws, rules and regulations concerning the president, professors, tutors, instructors, agents, and servants, and the admission, government and tuition of students, as it deems wise and proper, and by suitable by-laws, delegate and commit the admission, government, management and control of the students, courses of studies, discipline and other internal affairs of such university, college or institution, to a faculty which the board appoints from among the professors. (R. S. Sec. 4099.)

SECTION 7903. When requested so to do by resolution of such board, the solicitor of such municipal corporation shall prosecute and defend, as the case may be, for and in behalf of the corporation, all complaints, suits and controversies in which the corporation or such board is a party, and which relate to any property, funds, trusts, rights, claims, estate or affairs under the control or direction of the board, or which, in any manner, relate to the conduct or government of such university, college or institution. (R. S. Sec. 4099.)

City solicitor
to act as
attorney.

SECTION 7904. The board of directors of such university, college or institution, upon the recommendation of the faculty thereof, may confer such degrees and honors as are customary in universities and colleges in the United States, and such others as with reference to the course of studies and attainments of the graduates in special departments it deems proper. (R. S. Sec. 4102.)

When board
may confer
degrees.

SECTION 7905. A university supported in whole or in part by municipal taxation, is defined as an assemblage of colleges united, under one organization or management, affording instruction in the arts, sciences and the learned professions, and conferring degrees. (R. S. Sec. 4102.)

University
defined.

SECTION 7906. The council of any such municipal corporation may set apart, or appropriate as a site for the buildings and grounds of such a university, college or institution, public grounds of the city not especially appropriated or dedicated by ordinance to any other use, any other law to the contrary notwithstanding; and the board of education of such a municipal corporation also, for a like purpose may set apart, convey or lease for a term of years, any grounds or building owned or controlled by such board. (R. S. Sec. 4103.)

Council may
provide site
for municipal
university.

How such
grant
changed.

SECTION 7907. Any grant for the use of such grounds, or buildings heretofore or hereafter made by any council or board of education, may be modified, changed or extended as to the time when it shall take effect and be in force, or otherwise, by agreement between such council, or board of education, and the board of directors of such university, college or institution. Such council shall be taken and held to be the representative of such municipal corporation vested with the title, right of possession and entire control of such property for the purposes of a new grant. (R. S. Sec. 4103.)

Tax levied.

SECTION 7908. The council annually may assess and levy taxes on all the taxable property of such municipal corporation to the amount of five-tenths of one mill on the dollar valuation thereof, to be applied by such board to the support of such university, college or institution, and also levy and assess annually five one-hundredths of one mill on the dollar valuation thereof, for the establishment and maintenance of an astronomical observatory, or for other scientific purposes, to be determined by the board of directors and to be used in connection with such university, college or institution, the proceeds of which shall be applied by the board of directors for such purposes exclusively. But such taxes shall only be levied and assessed when the chief work of such university, college or institution is the maintenance of courses of instruction, in advance of, or supplementary to, the instruction authorized to be maintained in high schools by boards of education. (R. S. Sec. 4104.)

When levy
to be made.

SECTION 7909. Such levies shall be made by the council at the time, and in like manner as other levies for other municipal purposes, and must be certified by it and placed upon the tax duplicate as other municipal levies. The funds of any such university, college or institution shall be paid out by the treasurer upon the order of the board of directors and the warrant of the auditor. (R. S. Sec. 4104.)

Municipal uni-
versity.

SECTION 7910. Any municipal corporation having a university supported in whole or part by municipal taxation, may issue bonds for the erection of additional buildings or the completion of buildings not completed, for such municipal university, and for the equipment thereof. (99 v. 133 § 1.)

Issue of
bonds.

SECTION 7911. Such bonds may be issued under ordinance of the council of such municipality with the approval of the mayor, but only upon the receipt of a certified resolution from the board of directors of such university of the necessity of such issue. The resolution and ordinance must specify the amount of the issue, the denomination of bonds, their rate of interest, their dates, and the times of their maturity. (99 v. 133 § 2.)

Disposal of
bonds.

SECTION 7912. The bonds so issued shall be sold according to the provisions of law for the sale of municipal

bonds, and the proceeds thereof, excepting the premiums and accrued interest, shall be placed in the treasury of such municipality and be used only for the purpose of erecting or completing and equipping such additional buildings as may have been specified in the resolution and ordinance calling for their issue. (99 v. 133 § 3.)

SECTION 7913. In the use of such fund for such purpose, all power and control shall be vested in the board of directors of the municipal university. Such board shall make any contracts necessary for the erection or completion of the buildings specified, and the equipment thereof; supervise their erection, completion and equipment, and issue proper vouchers for the payment out of such fund of moneys due under such contracts, and for any other expenses connected with the erection, completion, and equipment of such buildings. The amount of premium and accrued interest arising from the sale of the bonds shall be paid into the sinking fund. (99 v. 133 § 3.)

Power and control vested in directors.

SECTION 7914. The trustees of the sinking fund of any municipality issuing bonds under the above authority, annually shall levy a tax sufficient to pay the interest, and to provide a sinking fund for the final redemption of the bonds at maturity. (99 v. 134 § 4.)

Duties of trustees of sinking fund.

SECTION 7915. The board of directors of a university, college or other educational institution of any municipal corporation, in the name and on behalf of such corporation, may accept and take any property or funds heretofore or hereafter given to such corporation for the purpose of founding, maintaining or aiding a university, college or institution for the promotion of education, and upon such terms, conditions and trusts consistent with law as such board deems expedient and proper for that end. (R. S. Sec. 4095.)

Board of directors of educational institution may accept educational trusts.

SECTION 7916. For the further endowment, maintenance and aid of any such university, college or institution heretofore or hereafter founded, the board of directors thereof, in the name and in behalf of such municipal corporation may accept and take as trustee and in trust for the purposes aforesaid any estate, property or funds which may have been or may be lawfully transferred to the municipal corporation for such use by any person, persons or body corporate having them, or any annuity or endowment in the nature of income which may be covenanted or pledged to the municipal corporation, towards such use by any person, persons or body corporate. Any person, persons or body corporate having and holding any estate, property or funds in trust or applicable for the promotion of education, or the advancement of any of the arts or sciences, may convey, assign and deliver these to such municipal corporation as trustee in his, their or its place, or covenant or pledge its income or any part thereof to it. Such estate, property, funds or income shall be held and

How trust funds to be applied.

applied by such municipal corporation in trust for the further endowment, maintenance and aid of such university, college or institution, in accordance nevertheless with the terms and true intent of any trust or condition upon which they originally were given or held. (R. S. Sec. 4096.)

Trusteeship to
vest in city,
etc.

SECTION 7917. Upon such transfer and the acceptance thereof the municipal corporation and its successors, as trustees shall become and be perpetually obligated and held to observe and execute such trust in all respects according to any other or further terms or conditions lawfully agreed upon at the time of such transfer and acceptance. Any court having jurisdiction of the appointment of trustees of such trust for educational purposes, in a proceeding therefor, duly instituted and had, may, with the consent of its council, appoint and constitute such municipal corporation, trustee of the estate, property and funds so transferred to it, and dispense with bond and surety upon the part of the municipality for the performance of such trust, unless that is required by the original terms or conditions thereof, and upon the due transfer and acceptance of such trust shall release and fully discharge the trustees so transferring it. Any acceptance or acceptances by such municipal corporation of any or all property, funds, rights, trust estate or trusts heretofore given, granted, assigned, or otherwise conveyed or transferred to or bestowed upon such a municipal corporation or to or upon such a university, college or institution in good faith, and which are still held and retained by such municipality or such a university, college or institution, shall be held and deemed to be valid and binding as to all parties. (R. S. Sec. 4097.)

Account of
receipts and
expenditures
of endow-
ment fund.

SECTION 7918. The accounts of such trust estate, property and funds, and of the income and expenditure thereof, shall be kept by the auditor of such municipal corporation entirely distinct from all other accounts or affairs of the municipality and the moneys must be kept by the treasurer of the municipal corporation distinct from other moneys. Such board of directors, at all times, must confine their disbursements for current expenses within the income of the trust, estate, property and funds, and annually shall report to the mayor and council of such municipality a full statement of the accounts of administration of such trust and other funds. (R. S. Sec. 4101.)

How funds
invested.

SECTION 7919. Such board may invest any part of the funds belonging to, or set apart for the use of such university, college or institution, or to any department thereof, as it, from time to time deems proper, in bonds of the United States or of the state of Ohio, or of any municipal corporation in this state, or any county or school district herein, or in any other bonds or first mortgage securities approved by it; and may use any funds under its control for the improvement of real estate belonging to, or set apart

for the use of, such university, college or institution. (R. S. Sec. 4101.)

SECTION 7920. Citizens of such municipality shall not be charged for instruction in the academic department, except in professional courses therein. Such board of directors may charge fees to students in other departments and to students in professional courses in the academic department, and from time to time may make such university, college or institution free in any or all of its departments to citizens of the county in which it is located. The board of directors may receive other students on such terms as to tuition or otherwise as they see fit. (R. S. Sec. 4100.)

Citizens not to be charged for admission of children.

SECTION 7921. The custody, management and administration of any and all estates or funds, given or transferred in trust to any municipality for the promotion of education, and accepted by the council thereof, and any institution for the promotion of education heretofore or hereafter so founded other than a university as defined in this chapter, shall be committed to, and exercised by, the board of education of the school district including such municipality. Such board of education shall be held the representative and trustee of such municipality in the management and control of such estates and funds so held in trust and in the administration of such institution, excepting always funds and estates held by any municipality which are used to maintain a university as heretofore defined. (R. S. Sec. 4105.)

Board of education to have control and management of property held in trust for educational purposes.

SECTION 7922. For the uses and purposes of such board of education in administering such trusts, the council of such municipality annually may levy taxes on all the taxable property of such municipal corporation to the amount of three-tenths of one mill on the dollar valuation thereof. (R. S. Sec. 4105.)

Tax levy.

STATE UNIVERSITIES GENERALLY.

SECTION 7923. Inasmuch as it is deemed desirable for this state to determine its policy in regard to the support of institutions of higher learning, and further desirable that it adopt a distinct and fixed policy in regard to universities and colleges for all time to come so that the policy of the state with reference to the Ohio State university, the Miami university and the Ohio university shall be determined and made definite and to the end that the state may build up one university worthy of it, as now begun at the Ohio State university, and also to fix such a policy as will provide support for the Miami and Ohio universities as colleges of liberal arts, but not to include technical or graduate instruction, aside from the usual graduate work for the degree of master of arts, and to determine definitely for all time that the Miami university and the Ohio university shall be no greater charge on the state so far as university purposes

Declaration of policy of state with respect to Ohio state university, Ohio university and Miami university.

are concerned than herein provided for; therefore this subdivision of this chapter is passed to set forth the policy, to-wit: That in the future no representative of the Miami university or of the Ohio university or of the Ohio State university shall violate or attempt to violate this policy herein enacted into law as a policy for the support of higher education and as a guide for future general assemblies of the state of Ohio. (98 v. 309 § 1.)

Tax levy for support of Miami university.

SECTION 7924. For the purpose of affording support to the Miami university, there shall be levied annually a tax on the grand list of the taxable property of the state, which tax shall be collected in the same manner as other state taxes and the proceeds of which shall constitute "the Miami university fund." The rate of such levy shall be two and one-half one-hundredths of one mill upon each dollar of valuation of such property. The sum raised by such levy, or its equivalent in money in case the levy is abolished, shall be the sum total received either from the proceeds of the levy or from appropriations for the support of the college of liberal arts, and shall be used only for the purposes set forth in the next preceding section. This levy shall not hereafter be increased. But this shall not prevent such appropriations from time to time as may be necessary for apparatus for university purposes, exclusive of buildings. (98 v. 310 § 2.)

Tax levy for support of Ohio university.

SECTION 7925. For the purpose of affording support to the Ohio university, there shall be levied annually a tax on the grand list of the taxable property of the state which shall be collected in the same manner as other state taxes and the proceeds of which shall constitute "the Ohio university fund." The rate of such levy shall be two and one-half one-hundredths of one mill upon each dollar of valuation of such taxable property. The sum raised by means of such levy, or its equivalent in money, in case the levy is abolished, shall be the sum total received either from the proceeds of the levy or from appropriations for the support of the college of liberal arts, and shall be used only for the purposes set forth in section seventy-nine hundred and twenty-three. This levy shall not hereafter be increased. But this shall not prevent such appropriations from time to time as may be necessary for apparatus for university purposes, exclusive of buildings. (98 v. 310 § 3.)

Tax levy for support of normal school at Ohio university.

SECTION 7926. For the purpose of affording support to the state normal school or college, in connection with the Ohio university, there shall be levied annually a tax on the grand list of the taxable property of the state, which shall be collected in the same manner as other state taxes and the proceeds of which shall constitute "the Ohio normal school fund." The rate of such levy shall be one and one-half one-hundredths of one mill upon each dollar of valuation of such taxable property, unless otherwise designated by the general assembly. Nothing in this section shall pre-

vent such normal school from securing such additional appropriations as the general assembly sees fit to make from time to time for the support and equipment of the school. (98 v. 310 § 4.)

SECTION 7927. For the purpose of affording support to the state normal school or college, in connection with the Miami university, there shall be levied annually a tax on the grand list of the taxable property of the state, which shall be collected in the same manner as other state taxes and the proceeds of which shall constitute "the Miami normal school fund." The rate of such levy shall be one one-hundredths of one mill upon each dollar of valuation of such taxable property, unless otherwise designated by the general assembly. Nothing in this section shall prevent such normal school from securing such additional appropriations as the general assembly sees fit to make from time to time for the support and equipment of the school. (98 v. 311 § 5.)

Tax levy for support of normal school at Miami university.

SECTION 7928. No moneys derived under the levies provided for in this subdivision of this chapter shall be expended by the Miami university or by the Ohio university for maintaining or giving instructions in any courses of study other than in liberal arts in the normal school or college branches. (98 v. 311 § 6.)

How such money shall not be expended.

SECTION 7929. For the purpose of affording free the advantages to the youth of the state of a higher, technical, liberal, professional, agricultural, graduate and industrial education, including manual training, there shall be levied annually a tax on the grand list of the taxable property of the state, which shall be collected in the same manner as other state taxes and the proceeds of which shall constitute, "the Ohio State university fund." There shall be levied annually for that purpose sixteen one-hundredths of one mill upon each dollar of valuation of such taxable property, or its equivalent in money should such levy be abolished. Nothing herein shall prevent the Ohio State university from securing any appropriations that the general assembly sees fit to grant for the purposes herein set forth. The Ohio State university never shall maintain a normal school, but may establish a teacher's college or professional grade. Nothing in this section shall prevent the board of trustees from charging incidental expense fees and also reasonable tuition fees for professional education. (98 v. 311 § 7.)

Tax levy for support of Ohio state university.

SECTION 7930. No provision of this sub-division of this chapter shall prevent the boards of trustees of the Ohio State university, the Miami university, the Ohio university or the State Normal school at the Ohio university or at the Miami university from charging reasonable tuition for the attendance of pupils of either of such institutions from students who are non-residents of the state of Ohio. (98 v. 312 § 8.)

Tuition.

Inspection
of accounts.

SECTION 7931. The expenditure of all moneys under the provisions of this sub-division of this chapter or for the purposes of carrying them out, raised or secured from any source whatsoever, shall be subject to the inspection of the state bureau of public accounting, the cost thereof to be paid by the university or college inspected at the cost as provided by law. (98 v 312 § 9.)

OHIO UNIVERSITY.

Providing for
sale of uni-
versity lands.

SECTION 7932. The owners of lands or town lots held under leases from the president and trustees of the Ohio university, or held under sale-leases or assignments by or under the original lessees, may pay to the treasurer of the university, such sum of money, as, placed at interest at six per cent. will yield the amount of rent reserved in the original lease, or in case of a division of the original tract or parcel leased, will equal the proper aliquot part thereof, or the part agreed upon by the several owners. But a person so surrendering and releasing to such corporation must pay the necessary expenses incident to such change of tenure, and procure the services of an agent to perform the necessary labor thereof. Upon payment of such sum and of all rents due upon the land, on demand of such owner, the treasurer shall give him a certificate of such payment. (80 v. 193 § 1.)

Owner to re-
ceive deed;
form of.

SECTION 7933. Upon such payment, such owner shall be entitled to receive a deed of conveyance for such land by him owned, to be signed by the president of such corporation, countersigned by its secretary, and sealed with the corporate seal of the university, conveying the premises in fee simple to him, or such owner at his option, may demand and receive a certificate as aforesaid. The governor of Ohio, upon presentation thereof, shall execute and deliver to such owner, a deed conveying the premises in fee simple to him. (80 v. 194 § 2.)

Validity of
such deed.

SECTION 7934. Either of such deeds, so made, shall have the effect in law and in fact to vest in the grantee an absolute estate in fee simple in the premises, subject, however, to all liens, equities, or rights of third persons in, to or upon the premises. (80 v. 194 § 3.)

Registry of
deed, etc.,
to be kept.

SECTION 7935. Such secretary shall keep an accurate registry of all such payments, certificates and deeds, with an accurate description of the tract or lot of land so paid for or deeded. Thereafter, the land so deeded shall be subject to taxation in like manner as other freehold estates in such county. The original leases therefor, in so far as regards the land so deeded, shall cease to have force or effect. (80 v. 194 § 4.)

Proceeds to
be deposited
in state treas-
ury, and be-
come irre-
ducible trust
fund.

SECTION 7936. The treasurer of the Ohio university, on or before the first day of January, next, after such receipt of money, must deposit it in the state treasury upon the certificate of the state auditor. The sums so deposited

shall be added to the irreducible trust funds held by the state for educational purposes, and interest thereon be paid semi-annually to the treasurer of such university, upon the requisition of the state auditor. (80 v. 194 § 5.)

SECTION 7937. A state tax or a tax equal to the state tax upon like property, shall be levied and collected upon all lands donated to the Ohio university, situated at Athens, Ohio, and held by lease from it or by deed from the governor of the university, including such parts of such lands as are or may be owned, occupied or used by railroad companies as road-beds, road-ways, station-houses, or for other purposes. Such taxes, when collected, shall be paid by the treasurer of Athens county, upon the warrant of the auditor of the county, to the treasurer of the Ohio university, for its use. (82 v. 115 § 1.)

Levy and collection of state tax upon funds donated to Ohio university.

SECTION 7938. The tax so collected upon lands so held by lease, shall be in lieu of so much of the rents due to the university. The tax so collected from railroad companies, and paid to the university, shall not include the tax upon rolling stock. (82 v. 115 § 2.)

Tax in lieu of rents; tax collected from railroad companies.

MIAMI UNIVERSITY.

SECTION 7939. The government of Miami university shall be vested in twenty-seven trustees, to be appointed by the governor by and with the advice and consent of the senate. Nine trustees shall be appointed every third year, for a term of nine years, beginning on the first day of March in the year of their appointment. Vacancies in the board of trustees shall be filled for the unexpired term in the same manner. (66 v. 73 § 1.)

Appointment of trustees.

SECTION 7940. The board of trustees, annually, shall make a full and accurate report to the governor, on or before the fifteenth day of November, of all receipts and disbursements of the preceding year, the number of students in attendance, studies taught, and such other matters connected with the institution as the board deems important. Such report shall be transmitted by the governor to the legislature. (66 v. 73 § 2.)

Annual report.

SECTION 7941. The standing committee on colleges and universities of each legislature, shall examine into the condition of Miami university, and report to the legislature such matters as it deems important to the interests of the university. (66 v. 73 § 3.)

Duty of standing committee on colleges and universities.

OHIO STATE UNIVERSITY.

SECTION 7942. The government of the Ohio state university shall be vested in a board of seven trustees, who shall be appointed by the governor, with the advice and consent of the senate. One trustee shall be appointed each year for a term of seven years from the fourteenth day of

Appointment of trustees; term, compensation, etc.

May of such year, and serve until his successor is appointed and qualified. A vacancy in the office of trustee shall be filled by an appointment to be made in the same manner as an original appointment, but only for the unexpired term. The trustees shall not receive compensation for their services, but shall be paid their reasonable necessary expenses while engaged in the discharge of their official duties. (75 v. 126 §§ 2, 3.)

Style and
power of
trustees.

SECTION 7943. The trustees and their successors in office shall be styled the "board of trustees of the Ohio state university," with the right as such, of suing and being sued, of contracting and being contracted with, of making and using a common seal, and altering it at pleasure. (67 v. 21 § 4.)

Officers of
the board.

SECTION 7944. The board of trustees annually shall elect one of their number chairman, and in the absence of the chairman elect one of their number temporary chairman. It also may appoint a secretary, treasurer, and librarian, and such other officers as the interests of the college require, who may be members of the board. Such appointees shall hold their offices for such term as the board may fix, subject to removal by it, and receive such compensation as the board prescribes. (67 v. 21 § 9.)

Treasurer.

SECTION 7945. Before entering upon the duties of his office the treasurer shall give bond to the state in such sum as the board of trustees determines, but not for a less sum than the probable amount that will be under his control in any one year, conditioned for the faithful discharge of his duties and the payment of all moneys coming into his hands, the bond to be approved by the attorney-general of the state. (67 v. 21 § 9.)

Meetings of
board.

SECTION 7946. Meetings of the board of trustees shall be called in such manner, and at such times as the board prescribes. The board shall meet at least three times annually, and at such other times as may be necessary for the best interest of the university. A majority of the board present at any meeting shall constitute a quorum to do business; but a majority of all the board shall be necessary to elect or remove a president or professor. (75 v. 126 § 6.)

Annual re-
port of
trustees.

SECTION 7947. On or before the first day of October of each year the board of trustees shall cause a report to be made to the governor of the condition of the university; the amount of receipts and disbursements, and for what the disbursements were made; the number of professors, officers, teachers, and other employes and the position and compensation of each, the number of students in the several departments and classes, and the course of instruction pursued in each; also an estimate of the expenses for the ensuing year; a statement showing the progress of the university, recording any improvements and experiments made, with their costs, and the results, and such other matters as

are useful. Such annual report shall be for the year ending June thirtieth next preceding. Five thousand copies thereof shall be printed under the law as to printing the journals and other documents of the general assembly, to be distributed by the trustees in such manner as they deem for the best interest of the university. The president thereof shall transmit by mail one copy respectively to the secretary of the interior, the secretary of agriculture, and to each of the colleges which are, or may be endowed under the provisions of the act of congress of July 2nd, 1862. (90 v. 292 § 7.)

SECTION 7948. The board of trustees may adopt by-laws, rules and regulations for the government of the university. (67 v. 21 § 5.)

Board may make rules and regulations.

SECTION 7949. The board of trustees shall elect, and fix the compensation of and remove, the president and such number of professors, teachers and other employes as may be deemed necessary; but no trustee, or his relation by blood or marriage, shall be eligible to a professorship or position in the university, the compensation for which is payable out of the state treasury or a university fund. The board shall fix and regulate the course of instruction and prescribe the extent and character of experiments to be made at the university. (67 v. 21 § 5; 75 v. 126 § 2; 99 v. 602 § 9.)

Election of president, professors, etc., and course of instruction.

SECTION 7950. The board of trustees shall have general supervision of all lands, buildings, and other property belonging to the university, and the control of all expenses therefor, but shall not contract a debt not previously authorized by the general assembly of the state. (67 v. 21 § 8.)

Property, expenses, etc.

SECTION 7951. The board of trustees may receive, and hold in trust, for the use and benefit of the university, any grant or devise of land, and donation or bequest of money or other personal property, to be applied to the general or special use of the university. All donations or bequests of money shall be paid to the state treasurer, and invested in like manner as the endowment fund of the university, unless otherwise directed in the donation or bequest. (67 v. 22 § 11.)

Board may receive devises of land, etc.

SECTION 7952. The title for all lands for the use of the university shall be made in fee simple to the state of Ohio, with covenants of seizin and warranty, and no title shall be taken to the state for the purposes aforesaid until the attorney-general is satisfied that it is free from all defects and incumbrances. (67 v. 22 § 13.)

Title of lands to be vested in the state, etc.

SECTION 7953. The attorney-general of the state shall be the legal adviser of such board of trustees. He shall institute and prosecute all suits in their behalf and receive like compensation therefor as he is entitled to by law for

Attorney-general to be legal adviser of the board.

suits brought in behalf of the asylums of the state. (67 v. 22 § 15.)

Who admitted
as pupils;
lectures.

SECTION 7954. The university shall be open to all persons over fourteen years of age, subject to such rules, regulations and limitations, as to numbers from the several counties of the state, as is prescribed by the board of trustees. But each county shall be entitled to its just proportion, according to its population. The board may provide for courses of lectures, either at the seat of the university or elsewhere in the state, which shall be free to all. (67 v. 20 § 3.)

Branches
prescribed.

SECTION 7955. The board of trustees, in connection with the faculty of the university shall provide for the teaching of such branches of learning as are related to agriculture and the mechanic arts, mines and mine engineering, and military tactics, and such other scientific and classic studies as the resources of the fund will permit. (77 v. 227 § 10.)

Duties of
board as to
cereals, etc.

SECTION 7956. The board of trustees shall collect, or cause to be collected, specimens of the various cereals, fruits, and other vegetable products, and have experiments made in their reproduction upon the lands of the university, and make report thereof from year to year, together with such other facts as tend to advance the interests of agriculture. (75 v. 126 § 4.)

Collections of
specimens of
geology, etc.

SECTION 7957. The board of trustees shall secure and keep in the university a collection of specimens in mineralogy, geology, zoology, botany, and other specimens pertaining to natural history and the sciences. The president of the university shall collect and deposit therein in the manner directed by the trustees, a full and complete set of specimens as collected by him and his assistants, together with a brief description of the character thereof, and where obtained. Such specimens shall be properly classified and kept for the benefit of the university. (75 v. 126 § 5.)

Department of
ceramics.

SECTION 7958. The board of trustees of the university shall establish therein a department of ceramics, equipped and designed for the technical education of clay, cement and glassworkers, in all branches of the art which exist in this state, or which profitably can be introduced and maintained herein from the mineral resources thereof, including the manufacture of earthenwares, stonewares, yellowwares, whitewares, china, porcelain and ornamental pottery, the manufacture of sewer-pipe, fire-proofing, terracotta, sanitary claywares, electric conduits and specialties, fire-bricks and all refractory materials, glazed and enameled bricks, pressed bricks, vitrified paving material as well as the most economic methods in the production of the coarser forms of bricks used for building purposes; and the manufacture of tiles used for paving, flooring, decorative wall-

paneling, roofing and draining purposes; also the manufacture of cement, concrete, artificial stone and all kinds of glass products and all other clay industries represented in this state. (91 v. 164 § 1.)

SECTION 7959. Such department shall offer special instruction to clay-workers on the origin, composition, properties and testing of clays, the selection of materials for different purposes, the mechanical and chemical preparation of clays, the laws of burning clays, the theory and practice of the formation of clay bodies, slips and glazes, and the laws which control the formation and fusion of silicates. (91 v. 164 § 2.)

Special instruction therein.

SECTION 7960. Such department shall be provided with an efficient laboratory designed especially for the practical instruction of clay-workers in the list of subjects enumerated in section seventy-nine hundred and fifty-eight, and also be equipped to investigate into the various troubles and defects incident to every form of clay working, which can not be understood or avoided except by use of such scientific investigation. Such laboratory shall be equipped with apparatus for chemical analysis, with furnaces and kilns for pyrometric and practical trials, with such machinery for the grinding, washing and preparation of clays for manufacture, as is consistent with the character of the department. (91 v. 164 § 3.)

Laboratory.

SECTION 7961. To conduct this department of ceramics, the board of trustees shall employ a competent expert, who shall unite with the necessary education and scientific acquirements, a thorough practical knowledge of clay-working, and not less than two years' actual experience in some branch of the art. He shall teach the theoretical part of the subject, conduct the laboratory for the instruction of students, prosecute such scientific investigations into the technology of the various clay industries as may be practicable, and from time to time publish the results of his investigations in such form that they will be accessible to the clay-workers of the state for the advancement of the art. (91 v. 164 § 4.)

Expert.

SECTION 7962. The board of trustees, of the university are required to establish therein, a school of mines and mine engineering, in which shall be provided the means for scientifically and experimentally studying the survey, opening, ventilation, care and working of mines. Such school shall be provided with a collection of drawings, illustrating the manner of opening, working, and ventilating mines; with the necessary instruments for surveying, measuring air, examining and testing the noxious and poisonous gases of mines, and with models of the most improved machinery for ventilating and operating all the various kinds of mines with safety to the lives and health of those engaged therein. Such school also shall be provided with complete mining

Establishment of a school of mines.

laboratories for the analysis of coals, ores, fire-clays and other minerals, and with all the necessary apparatus for testing the various coals, ores, fire-clays, oils, gases, and other minerals. (85 v. 155 § 1.)

Employment
and duties of
instructors.

SECTION 7963. The board of trustees shall employ competent persons to give instruction in the most improved and successful methods of opening, operating, surveying and inspecting mines, including the methods and machinery employed for extracting coal, ore, fire-clay, oil, gas and other minerals from the pit's mouth and for facilitating the ascent and descent of workmen, the draining and freeing of mines from water, the causes of the vitiation of air, the quantities of fresh air required under the various circumstances, natural ventilation, mechanical ventilation by flues and fans, and other ventilating machinery, the use of air-engines, air compressors and coal cutting machinery; also instruction in the various uses of coals, ores, fire-clays, oils, gases and other minerals, and the methods of testing, analyzing and assaying such minerals; and the methods employed in metallurgical and other processes in the reduction of ores and in determining the qualities of metals, particularly iron and steel, as shown by practical and laboratory tests. There also shall be kept in a cabinet properly arranged for ready reference and examination, suitably connected with such school of mines, samples of the specimens from the various mines in the state, which may be sent for analysis, together with the names of the mines and their localities in the counties from which they were sent, with the analysis and a statement of their properties attached. Such person shall also furnish an analysis of all minerals found in the state and sent to him for that purpose by residents thereof. (85 v. 155 § 2.)

Written analysis of fertilizers.

SECTION 7964. The professor occupying the chair in the chemical and mechanical department of the university, upon application, shall make and give a written analysis of artificial fertilizers furnished to him for that purpose. (75 v. 91 § 2.)

State sealer and standards of weights and measures.

SECTION 7965. The professor of physics of the university shall be ex-officio state sealer.* The standards of weights and measures adopted by the state shall be deposited in a suitable room at the university, and be by him kept in suitable cases, to be opened only for the purpose of comparing with such standards the copies which by law are furnished for the use of the several counties, unless by a joint resolution of the general assembly, or upon a call of either house for information, or by order of the governor for scientific purposes. (R. S. Sec. 142.)

Copies of standards for use of counties.

SECTION 7966. Copies of the original standards of the following materials, shall be procured by the state sealer for the use of each county in this state, not already fur-

* Under an act passed May 10, 1910, the state dairy and food commissioner is made state sealer.

nished, in pursuance of law, and be delivered by him to the auditor thereof. One-half bushel measure, of one-eighth inch copper, with brass rim; one gallon measure, of one-sixteenth inch copper, with brass rim and handle; one-half gallon, one quart, one pint, and one-half pint measure, to be made in the same manner and of the same material; fifty, twenty-five, twenty, ten, five, four, three, two and one pound weights, avoirdupois, to be made of castiron, turned, polished, and trimmed; and one-half pound, one quarter pound, two ounce, one ounce, half ounce, and quarter ounce weights, troy, to be made of brass; one brass yard measure, graduated into feet, inches and tenths. (R. S. Sec. 143.)

SECTION 7967. The state sealer shall cause to be impressed on each of the copies, so to be delivered to the counties, the letter "O," and such other device for each county as he directs before its deposit in the county auditor's office. Such device shall be recorded in the state sealer's office, and a copy thereof furnished to the auditor of the proper county. (R. S. Sec. 144.)

Device on
county
standards.

SECTION 7968. The state sealer shall furnish like copies of the original standards to the sealer of any city or village upon application therefor, and payment of the cost thereof, by such city or village. (R. S. Sec. 145.)

Like copies
to be fur-
nished to
cities and
villages.

SECTION 7969. The state sealer shall render accounts to the auditor of state of all moneys by him paid or liabilities incurred in procuring and delivering copies of the standards to the counties; and the auditor shall audit such accounts and draw his warrants on the state treasurer for the amounts he finds due, which must be paid by the treasurer out of any moneys to the credit of the general revenue fund. (R. S. Sec. 146.)

Exp nses.

SECTION 7970. The state sealer of weights and measures shall have charge of all the apparatus and property, belonging to the state, intended for the inspection of illuminating gas and gas meters, and the testing of the registration of meter-provers; he shall test the registration of all meter-provers that may be presented to him for that purpose, and stamp and seal all such meter-provers, so tested, that are found correct. For testing the registration of gas meter-provers, to be paid by the persons requiring such service, he shall be allowed the sum of five dollars for each meter-prover tested. (R. S. Sec. 147.)

Inspection of
gas and
meters.

SECTION 7971. All funds derived from the sale of land scrip issued to this state by the United States, in pursuance of any act of congress, together with the interest accumulated thereon, shall constitute a part of the irreducible debt of the state, the interest upon which, as provided by law shall be paid to the university by the auditor of state, upon the requisition of the commissioners of the sinking fund, issued on the certificate of the secretary of the board of trustees, that it has been appropriated by such

Funds from
sale of land
scrip.

trustees to the endowment, support, and maintenance of the university, as provided in such act of congress. (75 v 126 § 8.)

Investment of
interest of
"scrip fund."

SECTION 7972. On the first days of January and July in each year, the auditor of state shall invest the interest arising from the "agricultural college scrip fund" in the same manner in which the principal thereof is invested. (67 v. 16 § 2.)

County
schools.

SECTION 7973. The College of Agriculture and Domestic Science of the university shall arrange for the extension of its teachings throughout the state, and hold schools in which instructions shall be given in soil fertility, stock raising, crop production, dairying, horticulture, domestic science and kindred subjects. No such school shall exceed one week in length, and not more than one be held in any county during a year. (100 v. 11 § 1.)

Instruction
mail.

SECTION 7974. In addition to the holding of such schools, such college shall give instruction and demonstrations in various lines of agriculture, at agricultural fairs, institutes, granges, clubs, or in connection with any other organizations, that, in its judgment, may be useful in extending agricultural knowledge. The work in agricultural extension may also include instruction by mail and the publication of bulletins designed to carry the benefits of its teachings to communities remote from the college. (100 v. 11 § 2.)

WILBERFORCE UNIVERSITY.

Normal and
industrial
department.

SECTION 7975. A combined normal and industrial department shall be established and maintained at Wilberforce university, in Greene county, Ohio. (84 v. 127 § 1.)

Board of
trustees.

SECTION 7976. The government of such department shall be vested in a board of nine trustees to be known as "the board of trustees of the combined normal and industrial department of Wilberforce university." Five members of such board shall be appointed by the governor, by and with the consent of the senate, and three members thereof shall be chosen by the board of trustees of the university. The president of the university shall be ex-officio a member of the board. The governor shall appoint one member of such board each year, who shall serve five years, and whose term shall begin upon the first day of July in such year. Such appointment shall be made during the session of the senate next preceding the beginning of such term. (92 v 275 § 2.)

Choosing of
trustees by
university
board.

SECTION 7977. One member of the board shall be chosen by the board of trustees of the university at a regular meeting in each year, and shall hold office for the term of three years from the thirtieth day of June in such year. (89 v. 368 § 3.)

SECTION 7978. In case a vacancy in that portion of the board appointed by the governor or chosen by the university board occurs from death, resignation, or other cause, the appointment or selection to fill such vacancy shall be made in the one case by the governor, and in the other by the executive board of the university for the unexpired term. (84 v. 127 § 4.)

Vacancies.

SECTION 7979. Forthwith upon a choice by the university board of a trustee, the secretary of the university shall certify to the governor, under the university seal, the name of the persons so chosen as trustees, and shall also in a like manner certify the name of the person chosen by the executive board at any time to fill a vacancy. (84 v. 127 § 5.)

Names of trustees to be certified to governor.

SECTION 7980. The board of trustees so created shall meet in regular session at the university twice a year. The first meeting shall be on the third Thursday in June, and the second on the first Thursday in November of each year. Other meetings may be held at such places and times as a majority of the board determines. The trustees shall receive no compensation, but shall be reimbursed their traveling and other reasonable and necessary expenses out of appropriations under this sub-division of this chapter. (89 v. 368 § 6.)

Meetings of trustees; their expenses.

SECTION 7981. The board of trustees shall take, keep and maintain exclusive authority, directions, supervision and control over the operations and conduct of such normal and industrial department, so as to assure for it the best attainable results with the aid secured to it from the state. The board shall determine the branches of industry to be pursued, purchase through a suitable and disinterested agent, the necessary means and appliances, select a superintendent for the industrial branch of the department, fix his salary and prescribe his duties and authority. The expenditures of all moneys appropriated for carrying out the purposes and provisions of this subdivision of this chapter, shall be made only under such regulations and for such specific purposes not therein provided for, as the board of trustees of such department establish. No money appropriated by the state shall be used for any purpose not in direct furtherance and promotion of the objects of the department. (84 v. 127 § 7.)

Powers and duties of trustees.

SECTION 7982. No sectarian influence, direction or interference in the management or conduct of the affairs or education of such department shall be permitted by its board; but its benefits shall be open to all applicants of good moral character and within the limitations of age determined by the board. (84 v. 127 § 8.)

Non-sectarian character of department.

SECTION 7983. The treasurer of such department shall give to the state a bond to be approved by the attorney.

Bond of treasurer.

ney-general in the sum of twenty-thousand dollars conditioned that he shall faithfully discharge his duties and account for any money coming into his hands from the state. (92 v. 275 § 9.)

Annual report, and estimate of appropriations.

SECTION 7984. Annually, on or before the first day of December the board of trustees shall cause their report to be made to the governor of the condition, progress and results of such department, with an estimate of what appropriation shall be required to secure the objects of this subdivision of this chapter. (84 v. 127 § 10.)

Designation of pupils by members of general assembly.

SECTION 7985. Each senator and representative of the general assembly of the state may designate one or more youth resident of his district who shall be entitled to attend such normal and industrial department free of tuition. (92 v. 275 § 11.)

Appropriations; application of revenues.

SECTION 7986. For the purpose of carrying out the provisions of this subdivision of this chapter, there shall be levied annually a tax on the grand list of taxable property of the state, which shall be collected in a like manner as other state taxes, and the proceeds of which will constitute, "the fund of the combined normal and industrial department at Wilberforce university." The rate of such levy shall be designated by the general assembly at least once in two years. If it fails to designate the rate for any year, for the fund of the "combined normal and industrial department of Wilberforce university" such levy shall be one hundredth of one mill upon each dollar valuation of such taxable property. This shall be paid to the treasurer of the normal and industrial department at Wilberforce university in accordance with the provisions hereof. All revenue arising from tuitions, sales of products or otherwise under the aforesaid department shall be applied by its board of trustees to defray its expenses, or to increase its efficiency, a strict account of which shall be kept by the department board, and accompany the report to the governor. (94 v. 598 § 12.)

CHAPTER 12.

SCHOOLS SPECIALLY ENDOWED.

SECTION

7987. Trustees for schools specially endowed.
7988. Organization of board; oath and bond.
7989. Filling vacancies; removal.
7990. Powers and duties of trustees.
7991. Contracts with board of education of district in which school is located.

SECTION

7992. Termination of contract if school becomes sectarian.
7993. Accounts to be rendered.
7994. Visitors.

SECTION 7987. When any person, by deed, devise, gift or otherwise, sets apart any lands, moneys, or effects, as an endowment of a school or academy, not previously established, but does not provide for the management thereof, the common pleas court of the proper county shall appoint five trustees, who shall have the control and management of the property, moneys, and effects, so set apart, and of the school or academy thus endowed. They shall hold their offices for five years, and until their successors are elected and qualified. But in making the first appointment the court shall appoint one trustee for one year, one for two years, one for three years, one for four years, and one for five years. The trustees shall be a body corporate, with perpetual succession, and by such name as may be ordered by the court making the first appointment. (53 v. 33 § 1.)

Trustees for schools specially endowed.

SECTION 7988. Immediately after their appointment the trustees shall organize by appointing a president, secretary and treasurer, from their own number, and severally take and subscribe an oath to faithfully discharge the duties of trustees, and deposit it with the county auditor. Before taking possession of the property, moneys, or effects, constituting the endowment or trust, they severally shall give bond, in such sum as the court requires, with two or more sufficient sureties, to be approved by a judge thereof, whose approval must be indorsed on the bonds, conditioned for the faithful management of the property, moneys, and effects, entrusted to them and accountability therefor in such form as the court or judge may require. From time to time the court may require additional bonds and surety, as appears necessary for the preservation of the trust estate. The bonds required shall be payable to the state, and deposited in the office of the county auditor for safe keeping. (53 v. 33 § 4.)

Organization of board; oath and bond.

SECTION 7989. Such court annually shall appoint one trustee, to fill the vacancy then occurring; and at any other time fill vacancies that occur from any cause, for the unexpired term. Upon sufficient cause shown, reasonable notice of the time and place of hearing having been given to the party interested, such court may remove a trustee,

Filling vacancies; removal.

and, until a hearing be had, suspend him in the exercise of his office. (53 v. 33 § 2.)

Powers and
duties of
trustees.

SECTION 7990. From time to time, trustees may establish rules and regulations for the management and safe-keeping of the property, moneys, and effects, belonging to the trust, and the expenditure of the income thereof, and also for the management and government of the school or academy; which must be consistent with the terms of the deed, devise or gift, creating the endowment, and with the laws of this state. They shall not, at any time, or for any cause, incur any debt or liability, beyond the net income of the trust property, moneys, and effects, or use or appropriate it otherwise than to invest for the purposes of income, any part of the principal thereof, unless expressly authorized so to do by the terms of the deed, devise or gift, creating the endowment of trust. (98 v. 206 § 3.)

Contracts
with board
of education
of district in
which school
is located.

SECTION 7991. The trustees of any school heretofore established under the provisions hereof, and in no way connected with any religious or other sect, and the board of education of the district in which such school is situated, may make contracts whereby such trustees receive into the school pupils from such district, who shall receive such instruction as is, or may be, provided by law for public schools in this state. In consideration of such service by such trustees, such board, under the general restrictions of the law relating to common schools, in so far as they are applicable are not inconsistent herewith, may contribute to the maintenance of such school, and pay such part of the costs of the erection of additional buildings, and upon such conditions, not inconsistent with the deed, devise or gift under which the school is established, as is agreed upon by such board and such trustees. (98 v. 206 § 3.)

Termination
of contract if
school be-
comes sec-
tarian.

SECTION 7992. But after the making of such contract if such school becomes sectarian or in any way connected with any religious or other sect the contract thereupon shall terminate. When, for such cause, a contract terminates, no right, title, or interest in or to any building toward the cost of which the board of education contributed shall pass to the trustees until full compensation has been made to the board for the contribution made by it to the construction of such building. (98 v. 206 § 3.)

Accounts to
be rendered.

SECTION 7993. On the second Monday of September, in each year, and at such other times as the court requires, the trustees shall render a full and accurate account, statement, and exhibit, of the condition of the school or academy under their management, and the condition of the trust estate and funds; and cause it to be published in such form as the court directs. Such account, statement, and exhibit, shall be sworn to by the president, secretary, and treasurer, or two of them. (53 v. 34 § 5.)

SECTION 7994. The common pleas court of the proper county, annually, at the first session after the second Monday in September, shall appoint three competent and disinterested persons, who may visit any such school or academy, examine it together with the condition of the trust estate or endowment, and shall report thereon to such court. The court shall also authorize such other visitations and examinations as appear to be necessary. (53 v. 34 § 6.)

Visitors.

TITLE IX. PRIVATE CORPORATIONS

DIVISION VI. CORPORATIONS NOT FOR PROFIT

CHAPTER 3.

EDUCATIONAL.

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When officers may be appointed and degrees conferred.

SECTION 9922. When a college, university, or other institution of learning incorporated for the purpose of promoting education, religion, morality, or the fine arts, has acquired real or personal property, of twenty-five thousand dollars in value, has filed in the office of the secretary of state a schedule of the kind and value of such property, verified by the oaths of its trustees, such trustees may appoint a president, professors, tutors, and any other necessary agents and officers, fix the compensation of each, and enact such by-laws consistent with the laws of this state and the United States, for the government of the institution, and for conducting the affairs of the corporation, as they deem necessary. On the recommendation of the

faculty, the trustees also may confer all the degrees and honors conferred by colleges and universities of the United States, and such others having reference to the course of study, and the accomplishments of the student, as they deem proper. (R. S. Sec. 3726.)

SECTION 9923. But no college or university shall confer any degree until the president or board of trustees thereof has filed with the secretary of state a certificate issued by the state commissioner of common schools that the course of study in such institution has been filed in his office, and that the equipment as to faculty and other facilities for carrying out such course are proportioned to its property and the number of students in actual attendance so as to warrant the issuing of degrees by the trustees thereof. (R. S. Sec. 3726.)

Certificate to be filed with secretary of state.

SECTION 9924. A university, college, or academy, or the trustees thereof, may hold in trust any property devised, bequeathed or donated to such institution, upon any specific trust consistent with the objects of the corporation. (R. S. Sec. 3727.)

May hold donated property in trust.

Where a subscription is made in writing and accepted, and liabilities are incurred on the faith of it, its collection cannot be defeated on the ground of the supposed want of a valuable or legal consideration. 16 O. S., 20.

SECTION 9925. The president and professors shall constitute the faculty of any incorporated literary college or university, may enforce the rules and regulations enacted by its trustees for the government and discipline of the students, and suspend and expel offenders, as they deem necessary. (R. S. Sec. 3728.)

Who to constitute faculty; powers.

SECTION 9926. Any incorporated university, college, or academy may connect therewith, to be used as a part of its course of education, mechanical shops and machinery, or lands for agricultural purposes not exceeding three hundred acres, to which may be attached all necessary buildings for carrying on the mechanical or agricultural operations of such institution. (R. S. Sec. 3729.)

May acquire machinery and land.

SECTION 9927. Any company formed in pursuance of this title or which is held as stock, and not derived by donation, gift, devise, or gratuitous subscription, may change its capital stock into scholarships when it becomes necessary for the purpose of carrying out the object for which it was formed, in the mode provided in this title for increasing the capital stock of corporations. (R. S. Sec. 3730.)

May change stock into scholarships.

SECTION 9928. A college, university or other institution of learning, existing by virtue of an act of incorporation, or that hereafter becomes incorporated for any of the purposes specified in this chapter, if three-fourths of the trustees or directors thereof deem it proper, or if the institution is owned in shares, or by stock subscribed or taken, by a vote of the holders of three-fourths of the stock or shares, may change the location of such institution, con-

Location may be changed.

vey its real estate, and transfer the effects thereof, and invest them at the place to which such institution is removed. No such removal shall be ordered, and no vote taken thereon, until after publication in the manner provided by law in case of a sale and distribution of the property of such an institution, in which notice shall be fully set forth the place to which it is proposed to remove the institution. In case of removal, a copy of the proceedings of such meeting shall be filed with the secretary of state. (R. S. Sec. 3731.)

How endowment fund diverted.

SECTION 9929. The trustees of a corporation incorporated to create, hold and manage a college endowment fund, the articles of incorporation of which provide that the fund may be applied to any object not inconsistent with the purposes of education different from that particularly specified therein, may apply to the common pleas court in the county where the corporation is located for permission to make such change, designating particularly the purposes to which it is proposed to apply the fund. On being satisfied that such change is not inconsistent with the object of the original creation and institution of the fund, the court shall authorize and sanction it. (R. S. Sec. 3732.)

Vacancies caused by amendment of charter.

SECTION 9930. When a vacancy occurs in whole or part, in the board of trustees of an incorporated college, seminary, or academy, by reason of an amendment of the charter thereof, or from other cause, and there is no provision of law for filling it, within three months after receiving information thereof, the governor shall appoint the required number of trustees, one-third thereof to serve for one year, one-third for two years, and one-third for three years. (R. S. Sec. 3733.)

May increase property.

SECTION 9931. A college, university, academy, seminary, or other institution devoted to the promotion of education, existing by virtue of a special act of incorporation, or organized under the provisions of any law, whose property came and is held by donation, gift, purchase, devise, or gratuitous subscription, and the amount of which, or the income arising therefrom is limited by such special act, or the articles of association adopted by such institution, may receive, acquire, possess and hold any amount of property, real, personal or mixed, which its board of directors or trustees, for the institution accepts, and by its trustees, sell, dispose of and convey it. But such property shall not be diverted from the express will of the donor, deviser or subscriber. (R. S. Sec. 3734.)

Borrowing money and issuing bonds.

SECTION 9932. The board of trustees of such a college, university, academy, seminary, or other institution devoted to the promotion of education, in anticipation of donations to be received and collections to be made, for the purpose of constructing, enlarging or adding to college buildings or improvements, may borrow such sum of money

as they determine to be necessary therefor, and issue bonds for it and secure them by a mortgage upon the property on which such improvement is to be made, if the property is not held by them under some specific trust. (R. S. Sec. 3734.)

SECTION 9933. Before such an institution shall be authorized to acquire and hold additional property, the trustees thereof, at a regular meeting of their board, or at a special meeting called for that purpose, from time to time shall make and sign a statement specifying the amount of additional property which they seek to acquire and hold and set forth therein the purposes to which it is to be devoted, which statements shall be entered at large upon the record book of the trustees and be filed in the office of the secretary of state. (R. S. Sec. 3735.)

Statement
to be filed

SECTION 9934. The board of trustees of a university or college heretofore incorporated, and now under the patronage of four or more conferences or other religious bodies of any religious denomination, may accept the provisions of this and the nine succeeding sections, by resolution adopted at a regular meeting of the board, and entered upon the record of its proceedings. After such acceptance the board in all respects shall be organized, constituted, regulated, and perpetuated, under and pursuant to such provisions. No right acquired by such board, university or college, under its charter, or any law of this state, shall in any way be affected thereby. (R. S. Sec. 3736.)

How certain
boards may be
constituted
and governed.

SECTION 9935. At a meeting of such board held after a vacancy occurs therein it shall fill it, or if more than one vacancy has occurred, then one of them, by appointing the president of the university or college a trustee, and the president of such university or college, shall, ex-officio, be a trustee perpetually thereafter. At such meeting the board also shall divide its number, excluding such president, and including all vacancies except the one he is so appointed to fill, into classes, corresponding in number to the number of conferences or other religious bodies at the time patronizing such university or college, such classes to have in each an equal number of trustees, as near as may be and assign one of such classes to each of the conferences or other religious bodies, who thereafter may fill all vacancies in the class so assigned to it. (R. S. Sec. 3737.)

Trustees to
be divided
into classes.

SECTION 9936. When such classes of trustees are formed, the term of office of one of the trustees in each class, to be selected by lot in open session of the board of trustees, shall expire each year, and the persons thereafter elected as trustees shall act as such for a term of years equal in number to the number of trustees in any class, except as hereinafter provided. The term of office of a trustee shall not expire during a meeting of the board which does not continue for more than two weeks; and vacancies

Term of of
fice of trust-
ees; vacan-
cies.

which occur in any class of trustees otherwise than by the expiration of term of office shall be filled only for the remainder of the term. (R. S. Sec. 3738.)

When board
enlarged.

SECTION 9937. If the number of the conferences or other religious bodies patronizing such university or college, the board of trustees of which has been divided into classes as hereinbefore provided, be increased to not exceeding six, the board of trustees shall be enlarged to the extent of one additional class of trustees for each of such additional conferences or other religious bodies, such additional classes to have in each a number of trustees equal to the number in any one of the former classes. Each of such additional conferences or other religious bodies may elect as members of the board, the number in its class, one for one year, one for two years and one for three years, and so on to the extent of the number; and each also fill any vacancy in its class. Such board of trustees, composed according to the foregoing provisions, and as provided in section ninety-nine hundred and forty-five, without regard to the number of members so composing it, may increase its own numbers by the election of trustees at large, not exceeding the number of conferences or other religious bodies co-operating with or patronizing such university or college, and divide such trustees at large into classes, at its discretion. (R. S. Sec. 3739.)

When num-
ber in class
reduced.

SECTION 9938. If the number of such patronizing conferences or other religious bodies at any time exceeds six, the representation of each shall be reduced by lot, in open session of the board of trustees, to a class of three trustees, if they exceed that number, who thereafter shall be elected to serve as trustees for the term of six years, and in that case the term of office of one trustee in each class will expire every second year. (R. S. Sec. 3740.)

How a con-
ference may
become a
patron.

SECTION 9939. A conference or other religious body, not patronizing a particular university or college, may become such patronizing conference or religious body, by and with the consent of the conferences or other religious bodies at the time patronizing such university or college. (R. S. Sec. 3741.)

Patronizing
bodies may
appoint
visitors.

SECTION 9940. Each conference or other religious body patronizing a particular university or college, annually may appoint two visitors, and the board of trustees of a college or university, at the time of its organization, by resolution, adopted and entered on its records may provide for the appointment of two visitors by each conference or other religious body patronizing such college or university. Such visitors shall attend the meetings of the board of trustees of such university or college, and, with the trustees, constitute a joint board for the appointment and removal of all officers, professors, and instructors of the university or college. (R. S. Sec. 3742.)

SECTION 9941. If a conference or other religious body patronizing a university or college, and having a representation in its board of trustees, ceases to exist, or to patronize such institution, the right of such conference or other religious body to such representation shall cease, and its board of trustees be thereby and to that extent reduced in numbers. (R. S. Sec. 3743.)

When right of representation ceases.

SECTION 9942. Before a conference or other religious body not represented in the board of trustees of a university or college shall be entitled to be represented therein, and before a conference or other religious body represented therein shall be deprived of such representation as provided in the next preceding section, the board shall declare, and enter in the record of its proceedings, that the conditions and contingencies hereinbefore provided for in that behalf have taken place. (R. S. Sec. 3744.)

Action to be taken by board.

SECTION 9943. Eleven trustees shall constitute a quorum of the board of any such university or college, whatever the number of trustees if more than twenty is or may become; but when the number is twenty or less, a majority thereof shall constitute a quorum. (R. S. Sec. 3745.)

Quorum; how constituted.

SECTION 9944. The board of trustees of a university or college which has accepted or accepts the provisions of the ten preceding sections, may accept the provisions of the three succeeding sections by resolution adopted at a regular meeting thereof, and entered upon the record of its proceedings. Thereafter the board, and the university or college, shall be subject to the provisions of such sections. (R. S. Sec. 3746.)

Who may have benefit of subsequent provisions.

SECTION 9945. After such acceptance by the board of a university or college, the alumni thereof composing its alumni association, may elect as members of the board of trustees of such college or university, members of such association, in numbers equaling the numbers of the conferences co-operating with or patronizing such university or college, and divide such alumnal trustees into classes, and perpetuate them. At the same time such alumni may elect as visitors members of their association equaling in numbers one-half of the numbers of the conferences or other religious bodies co-operating with or patronizing such university or college, who shall have the same powers and duties as visitors appointed by such conference or other religious body. When women are members of the alumnal association so electing, they shall be eligible as visitors. The board of trustees shall be judge of the validity of the election and the returns thereof, of trustees and visitors elected under this section. (R. S. Sec. 3747.)

Alumni may elect trustees and appoint visitors.

SECTION 9946. The election of trustees and visitors by the alumni shall be by ballot, and held each year, beginning the year after such acceptance, on the secular day next before the day of commencement of such university

Conduct of election.

or college, at such place in a building on its grounds as is designated by the president of the alumnal association by written notice posted the day before the election in at least two public places on such grounds. The polls shall be opened at the hour named in such notice, which shall not be later than three o'clock afternoon, and be kept open for two hours thereafter. The election shall be conducted by three judges and two clerks, who are members of the association and chosen by the members present at the place of voting at the time for opening the polls. They shall certify to the board of trustees the result of such election, with a list of the members voting thereat. Each ballot shall contain the names of the persons voted for, the office which each is to fill and a designation of the term for which he is to serve. At such election all members of the alumnal association of such university or college shall be entitled to vote. Members not in attendance may exercise their right by sending ballots conforming to the foregoing provisions, with their names thereon indorsed, and addressed under seal to the president of such association. (R. S. Sec. 3748.)

Returns and
certificates of
election.

SECTION 9947. After the polls are closed the result shall be ascertained and certified to by the judges and clerks, and the person or persons, not exceeding the number to be elected, who received the highest number of votes therefor, shall be declared elected as trustee as designated on the ballot. The two persons who receive the highest number of votes for visitors shall be declared elected, but their terms of office shall not begin until after the final adjournment of the regular meeting of the trustees for that year. If any two or more persons receive an equal number of votes for trustee or visitor, one of them, as is determined by lot by the judges, in the presence of all the electors who wish to be present, shall be the trustee or visitor, and be so declared. Duplicate certificates of election shall be signed by the judges and clerks, and delivered by them, one to each of the persons elected, and the other, with the poll-books duly certified by the judges and clerks, to the secretary of the board of trustees of the university or college, the next day after the election, which certificate he shall enter of record in the book containing the proceedings of the board of trustees. (R. S. Sec. 3749.)

Endowment
fund corpo-
rations.

SECTION 9948. The trustees of a corporation incorporated for the purpose of creating a fund, the income of which is to be applied to the promotion of education, may receive subscriptions for membership in the corporation, and they, or a majority of them, by giving ten days' notice, by publication in the county where the corporation is located, may call a meeting of members to adopt by-laws, and elect not more than nine directors. Each member shall have a vote for every amount by him subscribed equal to that in the articles of incorporation specified as necessary for membership, which may be cast in person or by proxy.

but at no subsequent meeting can a member vote for or be eligible as a director who is in arrears to the corporation. The trustees shall control the funds and disburse the income of the corporation as provided by its by-laws. (R. S. Sec. 3750.)

SECTION 9949. The board of trustees of a university, college or other institution of learning, incorporated, and acting under the patronage of one annual conference or other religious body of a religious denomination, may accept the provisions of this and the succeeding section, by resolution adopted at a meeting of the board, and entered upon the record or journal of its proceedings. After such acceptance the board shall be organized, constituted, regulated, and perpetuated as therein provided. No right acquired by such board, university, or other institution of learning, under its charter, or any law of this state, shall be impaired or affected thereby. (R. S. Sec. 3751.)

How certain boards constituted and governed.

SECTION 9950. The board of trustees of a university or college heretofore incorporated, and now under the patronage of one annual conference, synod or other religious body of a religious denomination, may increase the number of its trustees, not exceeding six. Such additional trustees shall be nominated by the collegiate alumni of the university or college from the collegiate alumni of three years' standing, for appointment or election by such patronizing conference or synod, under such regulations as are prescribed by such board, if it determines to increase the number of its trustees and makes such regulations for their nomination, by resolution adopted at a regular meeting of the board and duly entered on the record of its proceedings, and, such patronizing or governing conference or synod consents to the increase and the rules and regulations for their nomination. And after such board is so increased by not exceeding six additional trustees, in all respects it shall be organized, constituted, regulated and perpetuated pursuant to and under its charter, and such provisions. No rights acquired by such a board, university or college, under its charter or any law of this state, shall be affected or impaired thereby. (R. S. Sec. 3751a.)

Increase in number of trustees in certain corporations.

SECTION 9951. A corporation may be formed for the promotion of academic, collegiate or university education, under religious influences, may set forth in its articles or certificate of incorporation, as a part thereof, the name of the religious sect, association or denomination with which it is to be connected, and grant any ecclesiastical body of such religious sect, association or denomination, whether it be a conference, association, presbytery, synod, general assembly, convocation or otherwise, the right to appoint its trustees or directors, or any number thereof. It also may set forth in its articles or certificate such other rights as to the administration of the purpose for which it is organized, consistent with the laws of this state and of the United

Colleges under ecclesiastical patronage.

States, as the incorporation desires to confer upon the ecclesiastical body of such sect, association or denomination, and that body may exercise all rights and powers set forth therein. (R. S. Sec. 3751b.)

How existing corporations may avail themselves of the provisions.

SECTION 9952. A corporation formed for the promotion of academic, collegiate or university education, under religious influences, incorporated under the laws of this state, by special act or otherwise, may avail itself of the provisions of the preceding section, as a part of its articles or certificate of incorporation, and may confer on an ecclesiastical body of such religious sect, association or denomination, it is or proposes to be connected with, whether it be a conference, association, presbytery, synod, general assembly, convocation or otherwise, any or all of the rights, powers or privileges by such section allowed to be conferred on corporations hereafter organized, and may accept the provisions by a vote of the majority of its trustees at any regular meeting. (R. S. Sec. 3751c.)

Copy of acceptance to be filed with secretary of state.

SECTION 9953. When so accepted, a copy of the acceptance, certified by the secretary or clerk of its board of trustees or directors, shall be sent to the ecclesiastical body with which it is or proposes to be connected. If such body agrees to accept the powers proposed to be conferred upon it, it shall certify its approval upon the certified copy so sent, and it thereupon shall be filed in the office of the secretary of state. When thus filed it will be a part of the charter of such corporation, and such ecclesiastical body shall exercise all the rights and powers so set forth in the articles or certificate of corporation. (R. S. Sec. 3751c.)

Number of trustees and classes.

SECTION 9954. After such acceptance the board shall certify it to the patronizing conference or other religious body having the right to elect or appoint trustees of such university or other institution of learning, at the next meeting of such conference or other religious body; and thereafter the board shall consist of twenty-one trustees elected or appointed, and the president of such university or other institution of learning, who shall be ex-officio a member thereof. Such elected or appointed trustees shall be divided into three classes of seven members each. (R. S. Sec. 3752.)

Election; term; vacancies; increase of board.

SECTION 9955. At the first election or appointment after such acceptance, one of such classes shall be elected or appointed for one year, one for two years and one for three years. No term of office of such trustee shall exceed the classes of trustees shall be elected or appointed for three years. No term of office of such a trustee shall expire during a meeting of the board which does not continue more than two weeks. Ten members of the board shall constitute a quorum. Vacancies which occur in any class of trustees otherwise than by expiration of the term of office shall be filled only for the remainder of the term.

Such a university or other institution of learning which heretofore accepted the provisions of sections ninety-nine hundred and forty-nine, ninety-nine hundred and fifty-four, and ninety-nine hundred and fifty-five, may increase its board of trustees by electing or appointing two additional members in each of the classes of trustees herein provided for. (R. S. Sec. 3752.)

SECTION 9956. The proportion that each stockholder of a college, academy, university, seminary, or other institution for the promotion of education, shall be required to pay to meet the debts and liabilities of the corporation, may be determined and collected in the manner provided by the three succeeding sections. (R. S. Sec. 3753.)

Assessments.

SECTION 9957. The trustees of such a corporation desiring to avail themselves of such provisions shall call a meeting of the stockholders for the purpose of determining what amount of its indebtedness shall be paid by each stockholder, and give thirty days' notice to the stockholders in writing or by publication in some newspaper of general circulation in the county where the corporation is located, of the time, place, and purpose of the meeting, at which also, the trustees shall submit a detailed statement showing the assets and indebtedness of the corporation. (R. S. Sec. 3754.)

Meeting of stockholders; notice.

SECTION 9958. A majority in interest of the stockholders present at such meeting may determine what amount of the indebtedness of the corporation is to be paid by each stockholder, and fix the time and mode for the payment of the money assessed against each stockholder. But these provisions shall not interfere with or abridge the right of a creditor of the corporation to institute any proceedings authorized by law to enforce the liability of stockholders. (R. S. Sec. 3755.)

How amount of assessment fixed.

SECTION 9959. The assessment shall be pro rata upon the stock subscribed or otherwise acquired by each stockholder, and in no case shall exceed the amount for which each stockholder is or may be liable by law. A stockholder who fails to pay the amount so assessed against him, shall be liable in a civil action to be brought in the name of the corporation, for the recovery thereof, as in other cases of indebtedness. (R. S. Sec. 3756.)

Limit of assessment and collection.

SECTION 9960. The academic board of an institution incorporated for military and polytechnical education shall consist of the superintendent thereof, the commandant of cadets, and the professors. It may make and enforce rules and regulations for the government of cadets, but they first shall be submitted to and approved by the governor of the state. (R. S. Sec. 3757.)

Board of military academies.

SECTION 9961. The board of visitors of such an institution shall consist of the governor, who shall be ex-

Board of visitors.

officio a member and the president of the board, of two other persons to be named by him, and such other persons as the superintendent of the institution appoints. (R. S. Sec. 3758.)

Duties of
board of
visitors.

SECTION 9962. The board of visitors shall meet at the institution, on the first day of the annual commencement exercises, and examine into the condition of the classes, quarters, and commons, the discipline, drill, records of standing in study, and conduct of the cadets, and report thereon to the legislature at its next session. The board of visitors, or any member thereof, may visit and inspect the institution at any time. (R. S. Sec. 3759.)

How term of
trustees fixed.

SECTION 9963. At a regular meeting for the election of directors or trustees of a college or other institution of learning, the authorized voters may determine by vote, whether the election of directors or trustees shall be held annually, if the term of their election is for a longer period than one year, and also what proportion of the entire board shall be so elected. At the first election hereunder the voters shall designate upon their ballots who shall serve for one year, who for two years, and who for three years. Vacancies caused by expiration of term of office shall be filled by election annually thereafter. (R. S. Sec. 3760.)

Certain cor-
porations may
change loca-
tion.

SECTION 9964. The trustees of colleges and other institutions of learning not endowed by voluntary contributions, established under special acts of incorporation, and which, by the provisions thereof are located at particular places, may change their location to such other places as they deem proper and erect and maintain academies and other schools auxiliary thereto. (R. S. Sec. 3761.)

Sale and dis-
tribution of
property of
certain cor-
porations.

SECTION 9965. The trustees of a university, college, or other institution of learning, incorporated by authority of this state under special charter, owned in shares or stock subscribed or taken, may dispose of its property at public sale, on such terms as to payment as the stockholders by a vote of three-fourths of the shares or stock of the institution, direct, after giving public notice thereof, by publication, for six consecutive weeks in some newspaper published in the county where the institution is located. Such notice shall contain a full statement of the terms, time and place of sale, and such action of the trustees. The trustees may close up the corporate existence of such institution, and make an equitable division and distribution of the proceeds of the sale among all the holders of shares or stock, after the payment of its just debts. (R. S. Sec. 3762.)

Certain col-
leges may file
charter and
amend.

SECTION 9966. The trustees of any university, college or institution of learning, incorporated under authority of this state, owned in shares of stock subscribed and paid up in full, by a majority of the owners of such stock, for the sole purpose of promoting education, religion and

morality, or the fine arts, exclusively among males or females, on the written portion of the owners of a majority of such stock filed before its trustees or on the vote of the owners of the majority of such shares of paid up stock at any general meeting of the stockholders called for such purpose, after thirty days' notice published in some newspaper published and of general circulation in the county, by them, may change the name and enlarge the purposes and objects of such university, college or institution, by amendments to its charter, approved by the owners of the majority of such stock, so that all the educational rights and privileges thereof may be bestowed in the co-equal and co-ordinate education of both sexes. (R. S. Sec. 3762a.)

SECTION 9967. When such amendment is adopted and the original articles of incorporation of such corporation have not been filed and recorded in the office of the secretary of state, a copy of the amendment and of the original articles, with a certificate to each of them thereto affixed, signed by the president and secretary of the corporation, and sealed with the corporate seal, if any there be, stating the fact and date of the adoption of such amendment, and that such copy thereof and of the original articles of incorporation are true copies of the originals shall be recorded in such office. When so recorded, such amendment shall be in law the sole articles of incorporation of the corporation. The property, real and personal, corporate franchises, and endowment funds, gifts, bequests, legacies, or mortgage securities, promissory notes, and rights of every kind belonging to, vested in, claimed, or possessed by the original corporation, by such amendment shall pass to, and be enjoyed and exercised by the corporation named, created and organized by such amendment for the promotion of all the objects and purposes of its creation and organization. (R. S. Sec. 3762a.)

Copy of amendment to be filed with secretary of state.

SECTION 9968. For recording such amendments and copies of original articles of incorporation, and furnishing a certified copy or copies thereof, the secretary of state shall receive a fee of twenty cents per hundred words, to be in no case less than five dollars. (R. S. Sec. 3762a.)

Fee of secretary of state.

SECTION 9969. The board of trustees of a university, college, or institution of learning, incorporated under authority of this state, for the sole purpose of promoting education, religion and morality, or the fine arts, at a regular or special meeting of such board of trustees, called for that purpose, after thirty days' actual notice to each and all such trustees, may change the name and enlarge the purposes and objects of such university, college or institution of learning, by amendment to its charter, approved by a majority of the board at such regular or special meeting, so called and so notified, for such change of its name, and the enlargement of its purposes and objects. (R. S. Sec. 3762b.)

Colleges may change name or purpose.

Procedure and
effect.

SECTION 9970. When such amendment is so adopted by the board of trustees of such university, college or institution of learning, a copy thereof with a certificate thereto affixed, signed by the president and secretary of such board and sealed with the corporate seal, if any there be, stating the fact and date of such amendment, and that such copy is a true copy of the original amendment, shall be filed and recorded in the office of the secretary of state, and when so filed and recorded such amendment shall be in law an integral part of the articles of incorporation of such corporation. The property, real and personal, corporate powers and franchises, endowment funds, gifts, bequests, legacies, mortgage securities and promissory notes, belonging to, such original corporation, by such amendment shall pass to, and be enjoyed and exercised by the corporation created and organized by such amendment for the promotion of the objects of its creation and organization. Such new corporation shall be liable for and must perform all the lawful obligations and contracts of the original corporation. (R. S. Sec. 3762b.)

Fees of secre-
tary of state.

SECTION 9971. For recording such amendment and furnishing a certified copy or copies thereof, the secretary or state shall receive a fee of twenty cents per hundred words, to be in no case less than five dollars. (R. S. 3762b.)

Organic rules
may be pre-
scribed in ar-
ticles of cer-
tain corpo-
rations.

SECTION 9972. An association incorporated for the purpose of receiving gifts, devises or trust funds to erect, establish, or maintain an academy in any department of fine arts, a gallery for the exhibition of paintings, or sculpture or works of art, a museum of natural or other curiosities, or specimens of art or nature promotive of knowledge, or a law or other library, or courses of lectures upon science, art, philosophy, natural history, or law, and to open it to the public on reasonable terms; or an industrial training school, or a mechanics' institute for advancing the best interests of mechanics, manufacturers and artisans, by the more general diffusion of useful knowledge in those classes of the community, or homes for indigent and aged widows and unmarried women, whose directors or trustees may be of either sex, in its articles of incorporation may prescribe the tenure of office of the trustees or directors, the mode of appointing or electing successors, the administration and management of the property, trust and other funds of the corporation and such other organic rules as are deemed expedient or acceptable to donors, which shall be the permanent organic law of the corporation. (R. S. Sec. 3767.)

May add to
original ob-
jects.

SECTION 9973. By certificate duly acknowledged by the trustees or directors, and filed in the office of the secretary of state, such corporations may add to the original objects and purposes thereof, any of the several objects and purposes, mentioned in the preceding section, not pro-

vided for by the articles of incorporation. (R. S. Sec. 3768.)

SECTION 9974. Such corporation heretofore incorporated under the laws of the state, by certificate reciting the organic rules adopted by the corporation as its permanent organic law, duly acknowledged by the trustees or directors, and filed in the office of the secretary of state, may accept the provisions of the second preceding section. (R. S. Sec. 3768.)

Acceptance of
statutory pro-
visions.

SECTION 9975. The officers of such corporation charged or intrusted with the receipts and disbursements of its funds or property, shall make and keep accurate and detailed accounts of such funds, and the receipts and disbursements thereof such as are required to be kept by the fund commissioners of the state. On or before the third Monday in January of each year the trustees shall file with the clerk of the common pleas court of the county in which the corporation is located an abstract of their account which shall correspond in date, amount, person to whom paid, from whom received, and on what account, with the vouchers taken or given on account of such receipts and disbursements. At the same time they annually shall file in such clerk's office a report of the names of the donors, the kind, amount, or value of gifts of each, and a brief statement of the conditions and purposes of the gifts. The filing of such abstract and report, and the supplying of any omission in either, may be enforced by order and attachment of the common pleas court of the proper county, against the trustees, on motion of any respectable citizen. (R. S. Sec. 3769.)

Accounts of
receipts and
disbursements

SECTION 9976. No trustee of such corporation shall be eligible to any office or agency of the corporation to which a salary or emolument is attached, nor shall the trustees be allowed any salary, emoluments or perquisites, except the right of free ingress to the grounds, rooms, and buildings of the corporation. (R. S. Sec. 3770.)

Trustees in-
eligible to
other office.

SECTION 9977. On application to the attorney general by five citizens of the proper county, in writing, verified by the oath or affirmation of one of them, setting forth specific charges against any of the fiscal or other agents or trustees of such a corporation, involving a breach of trust or duty, he shall give notice thereof to the trustees or agents complained of, and inquire into the truth of such charges. For this purpose he may receive affidavits, or enforce, by process from the court of common pleas of Franklin county, the production of papers and the attendance of witnesses before him. If, on testimony or other evidence, he believes the charges or any of them to be true, he shall proceed, by action in that court, in the name of the state, against the delinquent trustee or trustees, fiscal agent or agents, and, on the hearing the court may direct the per-

Attorney-gen-
eral may en-
force duties
of officers.

formance of any duty, or the removal of all or any of the agents or trustees, and decree such other and further relief as is equitable. (R. S. Sec. 377I.)

May increase
number of
trustees of
certain corpo-
rations.

SECTION 9978. The board of trustees of a university or college heretofore incorporated, but not under the patronage of conferences or other ecclesiastical bodies of any religious denomination, may increase the number of such trustees to twenty-four, exclusive of the president, or a less number, and divide such trustees into six classes, each class to serve six years, and one class to be chosen each year, for such term. One trustee of each class may be chosen by the votes of the alumni of such university or college, if the board of trustees so provides by by-law, in which case the board also shall provide by such by-laws, a method of nominating and electing such appointee of the alumni. (R. S. Sec. 377Ia.)

Distribution
of new
members.

SECTION 9979. The president of such university or college shall ex-officio, be a trustee perpetually, and not be included in the classes going out in rotation. If in the first enlargement of the board of trustees, under the preceding section it be necessary to distribute new members to the several classes, whose terms will expire by rotation, the distribution may be made in such manner as the board directs so that no trustee shall be elected for a longer term than six years. (R. S. Sec. 377Ia.)

Stock corpo-
rations may
retire stock.

SECTION 9980. The board of trustees of a university or college in this state organized as a stock corporation and not under ecclesiastical patronage, upon the surrender and cancellation of all outstanding shares of its capital stock, may cause a certificate of that fact, sealed with the corporate seal and signed by the president and secretary of such board, to be filed in the office of the secretary of state, which certificate the secretary of state shall record for public use in the records of his office, and a certified copy of which he shall return to such board of trustees upon receipt of a fee of twenty cents per one hundred words, to be in no case less than five dollars. Thereupon such university or college shall continue its corporate existence as a corporation not for profit and with the same powers, duties, privileges and immunities as it previously possessed, save such as relate to its capital stock. Such board by resolution may conform the number, tenure and mode of election of its own members to the provisions of the preceding section, except, that trustees not authorized to be elected by the alumni, shall be elected by the board; and that the ex-officio membership thereon of the president of such college or university shall be optional with the board. (R. S. Sec. 377Ib.)

Cancellation
by decree of
court.

SECTION 9981. When such a corporation seeking to avail itself of the provisions of the preceding section has procured the surrender for cancellation of not less than

sixty per cent of the outstanding shares of its capital stock, any residue thereof standing upon its books in the names of persons, partnerships, societies or corporations that for seven years or more have been deceased, dissolved or of unknown address, and non-participants in the corporate elections, and of whose shares aforesaid no known owner exists, may be cancelled by decree of the court of common pleas of the county wherein such corporation is located, upon its petition, duly certified, being filed therein, making such persons, partnerships, societies and corporations or their legal representatives parties defendant, and on serving such defendants with public notice of the pendency of such petition in the manner provided for service by publication in civil actions, and upon averment and proof by the plaintiff and a finding by the court of the facts as hereinbefore required, and of the further fact that the plaintiff is an eleemosynary corporation. Thereupon the shares of such defendants shall be deemed to be cancelled and surrendered, and the decree shall not be vacated or set aside, on the application of any such defendant, otherwise than as in the case of judgments in civil actions. (R. S. Sec. 3771c.)

SECTION 9982. A mechanics' institute, incorporated under the laws of this state prior to the year eighteen hundred and fifty-one, may borrow money, issue bonds or notes therefor at no more than the legal rate of interest, and secure them by mortgage upon its real estate. (82 v. 118 § 1.)

Mechanics' institute may borrow money.

SECTION 9983. The directors and trustees of such corporations shall not be personally liable for debts contracted by them, as in the preceding section provided. (82 v. 118 § 2.)

Liability of directors and trustees.

SECTION 9984. Superintendents of city hospitals, directors or superintendents of city or county infirmaries, directors or superintendents of work-houses, directors or superintendents of asylums for the insane, or other charitable institutions founded and supported in whole or in part at public expense, the directors or warden of the penitentiary, township trustees, sheriffs, or coroners, in possession of bodies not claimed or identified, or which must be buried at the expense of the county or township, before burial, shall hold such bodies not less than thirty-six hours and notify the professor of anatomy in a college which by its charter is empowered to teach anatomy, or the president of a county medical society, of the fact that such bodies are being so held. Before or after burial such superintendent, director, or other officer, on the written application of the professor of anatomy, or the president of a county medical society shall deliver to such professor or president, for the purpose of medical or surgical study or dissection, the body of a person who died in either of such institutions, from

How medical colleges may receive bodies for dissection.

any disease, not infectious, if it has not been requested for interment by any person at his own expense. (R. S. Sec. 3763.)

Body to be delivered to claimant.

SECTION 9985. If the body of a deceased person so delivered, be subsequently claimed, in writing, by a relative or other person for private interment, at his own expense, it shall be given up to such claimant. (R. S. Sec. 3763.)

Interment of body after dissection.

SECTION 9986. After such bodies have been subjected to medical or surgical examination or dissection, the remains thereof shall be interred in some suitable place at the expense of the party or parties in whose keeping the corpse was placed. (R. S. Sec. 3763.)

Notification of relatives.

SECTION 9987. In all cases the officer having such body under his control, must notify or cause to be notified, in writing, the relatives or friends of the deceased person. (R. S. Sec. 3763.)

Body of strangers or travelers.

SECTION 9988. The bodies of strangers or travelers, who die in any of the institutions above named, shall not be delivered for the purpose of dissection unless the stranger or traveler belongs to that class commonly known as tramps. Bodies delivered as herein provided shall be used for medical, surgical and anatomical study only, and within this state. (R. S. Sec. 3763.)

Liability for having unlawful possession of body.

SECTION 9989. A person, association, or company, having unlawful possession of the body of a deceased person shall be jointly and severally liable with any other persons, associations, and companies that had or have had unlawful possession of such corpse, in any sum not less than five hundred nor more than five thousand dollars, to be recovered at the suit of the personal representative of the deceased in any court of competent jurisdiction, for the benefit of the next of kin of deceased. (R. S. Sec. 3764.)

APPENDIX

FORMS AND INSTRUCTIONS

NOTICE OF ELECTION IN SUB-DISTRICTS.

Notice is hereby given to the qualified voters of sub-district No. —, of — township, — county, Ohio, that the next annual school meeting for the election of a director in said district will be held at the — school house in said sub-district on Monday, the — day of April, 19—, beginning at — o'clock p. m. [a. m.], and closing at — o'clock p. m. [a. m.]

_____, *Director.*

NOTE:—The above notice to be posted in three or more conspicuous places, at least six days prior to the election. Section 4718.

POLL BOOK

Of the election held in sub-district No. —, in the township of —, in the county of —, and state of Ohio, on Monday, the — day of April, in the year A. D. 19—.

A. B., Chairman, and C. D., Clerk, judges of said election, were severally sworn, as the law directs, previous to their entering on the duties of their respective offices.

Number and names of electors.		Number and names of electors.	
No. 1	.....	No. 5	.....
2	.....	6	.....
3	.....	7	.....
4	.....	8	.....

It is hereby certified that the number of electors who voted at this election is —.

_____, *Chairman.*

_____, *Secretary.*

Judges.

TALLY SHEET

Of the election held in sub-district No. —, in the township of —, in the county of —, and state of Ohio, on Monday, the — day of April, in the year A. D. 19—, to elect a director for said sub-district.

fill the vacancy caused by _____ of _____ said appointment to extend until the next annual election as provided for in section 4720.

_____, Ohio.

_____, 19—.

_____, *President*

Attest:

_____, *Clerk.*

OATH OF SCHOOL DIRECTOR.

The following oath which may be administered by the clerk or any other member of the board of education, should be taken by each director before entering upon the discharge of his duties.

You, _____, do solemnly swear [*or affirm*] that you will support the constitution of the United States, and the constitution of the State of Ohio, and that you will faithfully and impartially discharge the duties of director, in and for said sub-district, number —, — township, — county, Ohio, according to law and the best of your ability.

DIFFERENT MODES OF ALTERING SUB-DISTRICTS.

Resolved by the board of education of — township, That there be transferred and united with sub-district number —, so much of sub-district number —, as is bounded as follows: [*describe boundary*].

Resolved by the board of education of — township, That sub-district number — is hereby abolished, and there is hereby transferred to and united with sub district number —, so much of the territory of said abolished sub-district as is bounded as follows: [*describe boundary*], and so much of said abolished sub-district as is not herein united with sub-district number —, is transferred to and united with sub-district number —. This resolution shall take effect on the — day of —, 19—.

Resolved by the board of education of — township, That so much of sub-district number —, as bounded as follows: [*describe boundary*], be cut off from said sub-district, and that so much of sub-district number — as bounded as follows: [*describe boundary*], be cut off from said sub-district, and that the territory thus cut off from sub-districts numbers — and —, respectively, is hereby consolidated and formed into a new sub-district and designated sub-district number — of — township.

Resolved by the board of education of — township, That sub-districts numbers — and — are hereby abolished, and that the territory included in said sub-districts at the time of their abolishment is hereby consolidated and formed into a new sub-district, and designated sub-district number — of — township. This resolution shall take effect on the — day of —, 19—.

NOTE:—When a new sub-district is formed the township board should appoint a director as provided in section 4720.

RESOLUTIONS ON BOND ISSUE.

Resolved, By the board of education of — school district, — county, Ohio, That it is necessary for the proper accommodation of the schools of said district that [*state nature of improvement*], that it will require \$— to make said improvement, that the funds at the disposal of said board or that can be raised under the provisions of section 7629 of the General Code of Ohio, are not sufficient to accomplish said purpose and that a bond issue is necessary, it is therefore further

Resolved, That an election be held in said school district on the question of the issuing of bonds in the sum of \$——— for the purpose herein specified, on the —— day of —— 19—, and that the clerk of the board be directed to forward a copy of these resolutions to the deputy state supervisors of elections and request said supervisors to provide election supplies and conduct said election, and that the clerk be also directed to publish the notices of said election as provided by law.

NOTICE OF ELECTION FOR BOND ISSUE.

Notice is hereby given by the board of education of —— school district, —— county, Ohio, that there will be an election held in said district at the usual voting place [*places*], between the hours of 5:30 a. m. and 5:30 p. m., on the —— day of ——, 190—, to consider the question of a bond issue in the sum of \$——, for the purpose of [*here state purpose*] as provided in section 7625 of the General Code of Ohio.

By order of the board of education.

———, Clerk.

———, Ohio.
———, 190—.

FORM OF BALLOT.

	For Bond Issue in the Sum of \$———, Yes.
	For Bond Issue in the Sum of \$———, No.

All elections on school questions should be held under the supervision of the regular election officers and the ballots be made to conform to the provisions of the general election laws.

PETITION FOR SPECIAL SCHOOL DISTRICT.

To the Probate Judge of —— County, Ohio:

We, the undersigned petitioners, being male citizens and electors of a proposed special school district, respectfully request that a special school district be established from the territory herein described for the following reasons: [*give reasons.*] Said special school district to be bounded and described as follows: [*Give description in full.*]

Respectfully submitted,

———, Ohio.
———, 19—.

NOTE:—The above petition must be signed by at least ten male electors and must be accompanied by a certificate from the county auditor giving the total tax valuation of the proposed district, an accurate map of the same and an undertaking with security for costs in the sum of \$100.

NOTICE OF SPECIAL MEETINGS.

Notice is hereby given that there will be a meeting of the board of education of _____ school district, _____ county, Ohio, on the _____ day of _____, at _____ o'clock _____, at _____, to consider any business which may be considered necessary.

_____, _____, 19—. _____, *Clerk.*

NOTE:—A special meeting may be called by the president, clerk or two members of the board.

TEACHER'S CONTRACT.

An agreement entered into between _____, of _____, _____ county, Ohio, and the board of education of _____ school district in _____ county, Ohio; the said _____ hereby agrees to teach in the public schools of said district for a term of _____ months, and also agrees to abide by and maintain the rules and regulations adopted by said board for the government of said schools of said school district. And in consideration of such services, the said board of education agrees to pay the said _____ the sum of _____ dollars, payable monthly at the office of the treasurer of the board of education.

Entered into this _____ day of _____, 19—.

_____, *Teacher.*
_____, *President.*
_____, *Clerk.*

Any special provisions may easily be inserted.

ORDER ON THE TREASURER.

(Form prescribed by Bureau of Inspection and Supervision of Public Offices.)

RECEIVED PAYMENT, _____, 19—.	No. _____ OFFICE OF BOARD OF EDUCATION _____ SCHOOL DISTRICT.
	\$ _____, _____, OHIO, _____, 19—.
	THE TREASURER OF SAID SCHOOL DISTRICT
	WILL PAY TO _____
	_____ DOLLARS,
	out of _____ Fund in the Treasury.
	For _____
	BY ORDER OF THE BOARD OF EDUCATION.
	_____, PRESIDENT. _____, CLERK.

ORDER ON TREASURER WHEN SCHOOL FUNDS ARE IN A DEPOSITORY.

(Form prescribed by Bureau of Inspection and Supervision of Public Offices.)

19— RECEIVED PAYMENT,	No. — OFFICE OF BOARD OF EDUCATION — SCHOOL DISTRICT. \$ ———, OHIO, ———, 19—. <p style="text-align: center;">THE TREASURER OF SAID SCHOOL DISTRICT</p> WILL PAY TO ————— ————— DOLLARS, out of ————— Fund in the Treasury. For ————— <p style="text-align: center;">BY ORDER OF THE BOARD OF EDUCATION.</p> —————, PRESIDENT, —————, CLERK Payable at ————— Bank, —————, Ohio. —————, TREASURER
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CERTIFICATE OF ANNUAL SCHOOL LEVY.

(Form prescribed by Bureau of Inspection and Supervision of Public Offices.)

To the Auditor of County:

It is hereby certified by the Board of Education of
 School District, County, that the entire amount
 necessary to be levied upon the property of said school district for school pur-
 poses, during the next school year, as directed by Sec. 7586 G. C., is as follows:

For Tuition Fund	mills.	\$.....	
For Building Fund	mills.	\$.....	
For Contingent Fund	mills.	\$.....	
For Bonds, Interest and Sinking Fund.....	mills.	\$.....	
For	mills.	\$.....	

BY ORDER OF THE BOARD OF EDUCATION.

....., CLERK.
, Ohio., 19....

CERTIFICATE OF SCHOOL FUNDS IN TREASURY.

We hereby certify that, by a count, as required by law, of all the money,
 bonds and securities in the hands of ———, treasurer of ——— school district
 ——— county, Ohio, made this ——— day of ———, 19—, in the presence of the
 clerk of the board, we find ——— dollars [and bonds, etc., in value amounting
 to ——— dollars] of school funds to be in the treasury on the date above

named, and we have directed the clerk to enter upon the records of the board a copy of this report.

Attest:

_____,
_____,
_____,
Board (or committee.)

_____, President.

_____, Clerk.

[See section 4767 of the General Code.]

TRANSFER OF TERRITORY.

(Minutes of Boards.)

Resolved, That the following described territory be and the same is hereby transferred from _____ school district, _____ county, Ohio, to _____ school district, _____ county, Ohio, subject to the provisions of section 4692, General Code of Ohio [give description.]

Resolved, That the clerk be instructed to notify the board of education of _____ school district of _____ county, Ohio, of the passage of this resolution, and upon similar action being taken by said board that said clerk file a certified copy hereof with the county auditor, together with a correct map of the territory described.

NOTE:—A majority of the full membership of the boards is necessary to carry such a resolution and a yea and nay vote is required.

LEASE TO SCHOOL DISTRICT.

Know all men by these presents:

That _____, of the county of _____, and State of _____, for the consideration herein mentioned, does hereby lease unto the board of education of the township of _____, county and state aforesaid, its successors and assigns, the following premises, to-wit: [Here insert description], with all the privileges and appurtenances thereunto belonging; to have and to hold the same for and during the term of _____ years from the _____ day of _____, 19—. And the said board of education for itself and assigns, does covenant and agree to pay the said _____ for the said premises, the annual rent of _____ dollars. [Insert date and place of payment.]

In witness whereof, the said parties hereunto set their hands, this _____ day of _____, 19—.

_____, Lessor.

_____,
President of the Board.

_____, Clerk.

Signed, sealed, and acknowledged in the presence of

_____,
_____.

State of Ohio, _____ County, ss.:

Before me, a _____ in and for said county, personally appeared _____, grantor in the above instrument, and acknowledged the same to be _____ voluntary act and deed, for the uses and purposes therein mentioned.

In testimony whereof, I have hereunto subscribed my name and affixed my _____ seal, this _____ day of _____, A. D. 19—.

(Title.)

If the lease be for three years or more, it must be acknowledged, attested by two witnesses, and recorded. If for a less term, it need not be executed with these formalities. See section 8517. The consideration may be money or anything else, and the form varied accordingly. The above form is for a long lease.

OATH OF CLERK OF BOARD OF EDUCATION.

The State of Ohio, ——— County, ——— Township, ss.:

Before me, ———, personally came ———, who, being duly sworn according to law, says that he will support the constitution of the United States and the constitution of the state of Ohio; and that he will faithfully discharge his duties as clerk of the board of education of the ——— school district ——— in ——— county, Ohio, during his term of office, and until his successor is chosen and qualified.

—————,
————— of said Board.

Sworn to before me and signed in my presence, on ——— day of ———, A. D. 19—.

—————
(Title.)

CLERK'S BOND.

Know all men by these presents, That we, ———, ———, are held and firmly bound unto the state of Ohio, in the sum of ——— dollars, for the payment whereof we jointly and severally bind ourselves.

Signed and sealed by us this ——— day of ———, A. D. nineteen hundred and ———

Whereas, the said ——— has been duly chosen and qualified as clerk of the board of education of ——— district ———, in ——— township, ——— county, and state of Ohio, for the term of one year from the ——— day of January, A. D. 19—, and until his successor is chosen and qualified.

Now, the condition of the above obligation is such, that if the said ——— shall faithfully perform all the official duties required of him as clerk of said board, then this obligation will be void; otherwise it shall be and remain in full force.

—————,
—————,
—————.

The sureties on the above bond, and its amount, approved by said board this ——— day of ———, A. D. 19—.

—————,
President of said Board.

FINAL RECEIPT OF CLERK.

§ ———, ———, Ohio, ———, 19—.

Received of ———, late clerk of ——— school district, the sum of ——— dollars, the record book, account book, school laws, teachers' certificates and reports, and the other official books and papers in his hands.

—————, *Clerk.*

OATH OF TREASURER OF BOARD OF EDUCATION.

The State of Ohio, ———— County, ss.:

Before me, ————, personally came ————, who being duly sworn according to law, says that he will support the constitution of the United States, and the constitution of the state of Ohio; and that he will faithfully discharge his duties as treasurer of the board of education of the ———— school district ———— county, Ohio, during his continuance in said office, and until his successor is chosen and qualified.

Sworn to before me and signed in my presence, on this ———— day of ————, 19—, by the said ————.

—————
————— of said Board.

TREASURER'S BOND.

(City, village and township districts.)

We, the undersigned ———— as principal and ———— and ———— as sureties, hereby acknowledge ourselves as firmly held unto the state of Ohio in the penal sum of ———— dollars for the payment whereof we jointly and severally bind ourselves, our heirs, executors and administrators.

Signed and sealed by us this ———— day of ————, A. D. 19—.

The condition of the above obligation is this, that whereas the said ————

has been duly elected as treasurer of the { city
village } of ————, and
{ township }

ex-officio treasurer of the school funds of the ———— school district, in the county of ———— and state of Ohio, for the term of two years from the ———— day of January, A. D. 19—, and until his successor is elected and qualified according to law; now if the said ———— shall faithfully disburse, according to law, all school funds which come into his hands, then this obligation shall be void; otherwise it shall be and remain in full force and effect.

—————,
—————,
—————.

The sureties on the above bond, and its amount, approved by said board this ———— day of ————, A. D. 19—.

—————,
President of said Board.

—————,
Clerk of said Board.

TREASURER'S BOND.

(Special district.)

We, the undersigned ———— as principal and ———— and ———— as sureties, hereby acknowledge ourselves as firmly held unto the state of Ohio in the penal sum of ———— dollars for the payment whereof we jointly and severally bind ourselves, our heirs, executors and administrators.

Signed and sealed by us, this ———— day of ———— A. D. 19—.

The condition of the above obligation is this, that whereas the said _____ has been duly chosen treasurer of the board of education of _____ district of _____, in _____ township, _____ county, and state of Ohio, for the term of one year from the first day of September, A. D. 19—, and until his successor is chosen and qualified; now if the said _____ shall faithfully disburse, according to law, all school funds which come into his hands, then this obligation shall be void; otherwise it shall be and remain in full force and effect

_____,
_____,
_____.

The sureties on the above bond, and its amount, approved by the board of education of said _____ school district, this _____ day of _____, A. D. 19—.

_____,
President of said Board.

_____,
Clerk of said Board.

FINAL RECEIPT OF TREASURER.

§_____, _____, Ohio, _____, 19—.

Received of _____, late treasurer of _____ school district _____ county, the sum of _____ dollars, and the following securities, bonds, and other school property, to-wit: _____

_____, *Treasurer.*

COMPLAINT IN REGARD TO SCHOOL FUNDS.

To the State Commissioner of Common Schools:

SIR: I respectfully submit the following state of facts as existing in _____ school district, _____ county, Ohio.

(Statement of complaint containing one of the causes mentioned in section 361, G. C.)

In consideration of the above statement I respectfully request the appointment of some competent accountant to investigate the condition of the school funds of said district.

_____, *Complainant.*
State of Ohio, _____ County, ss.:

I, _____, _____, and _____, do solemnly swear (affirm) that the statements made in the foregoing complaint are true to the best of my knowledge and belief.

_____,
_____,
_____.

Sworn to by _____, _____, and _____, and subscribed in my presence this _____ day of _____, 19—.

_____,
(Title.)

I hereby certify that _____, _____, and _____, are freeholders and taxpayers, residents of _____ school district.

_____,
County Auditor.

_____, Ohio, _____, 19—.

COMPULSORY EDUCATION LAW.

NOTICE TO PARENT OR GUARDIAN.

State of Ohio, _____ County, ss.:

To _____.

You are hereby notified that _____, a child between the ages of _____ and _____ years, under your charge, is not attending school, that such non-attendance is in direct violation of the law and without legal excuse.

You are hereby required to cause said child to attend some recognized school within two days from the date of this notice, and you are warned that if the truancy of said child is persisted in the final consequences will be as provided by law, as indorsed hereon.

Witness my hand this _____ day of _____, 19—.

_____,
Truant Officer.

_____ school district, _____ county, Ohio.

Print sections 12977 and 6246 on reverse side of form.

NOTICE TO TRUANT.

State of Ohio, County, ss.:

To _____, a child between the ages of _____ and _____ years.

You are hereby notified that you are and will be required to attend some recognized school within two days from the date of this notice, and you are hereby warned that if this notice is not complied with the final consequences will be as provided by law as indorsed hereon.

Witness my hand this _____ day of _____, 19—.

_____,
Truant Officer.

_____ school district, _____ county, Ohio.

Print section 7774 in full on reverse side of form.

NOTICE TO EMPLOYERS OF YOUTH.

To _____ [Here insert name of person, company or corporation]:

Your attention is respectfully called to sections 7765-7767, 7769-7771, 7782-7783, 12975, 12976, 12981-12985, to compel the elementary education of children.

In compliance with the provisions of this act, you are requested to return to me on this blank the names, ages, and residences of all minors under fourteen years of age employed by you, also all minors between fourteen and sixteen years of age, and to state whether you have a certificate from the superintendent of schools, or clerk of the board of education that authorizes you to employ such minors.

_____,
Clerk of _____ Board of Education.

Names of Minors.	Age.	Residence.	Certificate—Yes or No.
.....
.....
.....
.....
.....
.....
.....
.....
.....
.....
.....

In cities this notice may be signed by the superintendent of schools.

This certificate must be kept on file until the youth reaches the age of sixteen years and must be accessible to the Truant Officer and the Inspector of Factories at all times.

AGE AND SCHOOLING CERTIFICATE.

I, _____, being
the { Superintendent of Schools
Person duly authorized by the Superintendent of Schools } of the _____
Clerk of Board of Education }
_____ School District of _____ County, Ohio, hereby certify
that _____ (the description of whom is as follows: Height
_____ ft. _____ inches; complexion _____; hair _____; eyes _____;
_____) was born at _____, in the county of
_____, State of _____, on the _____ day of _____,
1—; that _____ has been examined and has passed a satisfactory fifth grade
test in reading, spelling, writing, English grammar, geography and arithmetic;
that the papers enumerated and described in Section 7766 of the General Code
of Ohio have been by me duly received, examined, approved and filed; and that
said _____ is, as to _____ development, health and physical fitness,
able to perform the labor, in which _____ is to be employed by _____.
Approved by me, and signed in my presence by the aforesaid, _____,
this _____ day of _____, 1—.

(Signed) _____

Title of Approving Officer.

Signature of Child.

I, _____, Superintendent of Schools of _____
School District, _____ County, Ohio, hereby certify that I have duly
authorized the above named _____, to approve the above Age
and Schooling Certificate.

(Signed) _____

Superintendent of Schools of
_____ School District.

TEACHER'S REPORT.

(Section 7772.)

....., Ohio,, 19..

To the Clerk of the Board of Education of County, Ohio.

The following is a correct list of the pupils attending my school during the month ending, 19...

....., *Teacher.*

(Section 7771.)

Ohio, 19..

To the Clerk of the Board of Education ofCounty, Ohio.
In compliance with your requirements, I hereby submit my report for, 19.., as shown below.

....., *Truant Officer.*

[illegible]

(House Bill No. 64)

AN ACT

To amend Section 4752 of the General Code, relating to the transaction of business by boards of education.

Be it enacted by the General Assembly of the State of Ohio:

SECTION 1. That Section 4752 of the General Code, be amended so as to read as follows:

Sec. 4752. A majority of the members of a board of education shall constitute a quorum for the transaction of business. Upon a motion to adopt a resolution authorizing the purchase or sale of real or personal property or to employ a superintendent or teacher, janitor or other employe or to elect or appoint an officer or to pay any debt or claim or to adopt any text book, the clerk of the board shall publicly call the roll of the members composing the board and enter on the record the names of those voting "Aye" and the names of those voting "No". If a majority of all the members of the board vote aye, the president shall declare the motion carried. Upon any motion or resolution, a member of the board may demand the yeas and nays, and thereupon the clerk shall call the roll and record the names of those voting "Aye" and those voting "No". Each board may provide for the payment of superintendents, teachers and other employes by pay-roll, if it deems advisable, but in all cases such roll call and record shall be complied with; provided, that boards of education of township school districts may provide for the payment of teachers monthly if deemed advisable upon the presentation, to the clerk, of a certificate from the director of the sub-district in which the teacher is employed stating that the services have been rendered and that the salary is due; the adoption of a resolution authorizing the clerk to issue warrants for the payment of the teacher's salary on presentation of such certificate shall be held as compliance with the above requirements.

SECTION 2. That said original Section 4752 be and the same is hereby repealed.

GRANVILLE W. MOONEY,
Speaker of the House of Representatives.

FRANCIS W. TREADWAY,
President of the Senate.

Passed May 10, 1910.

Approved May 19, 1910.

JUDSON HARMON, *Governor.*

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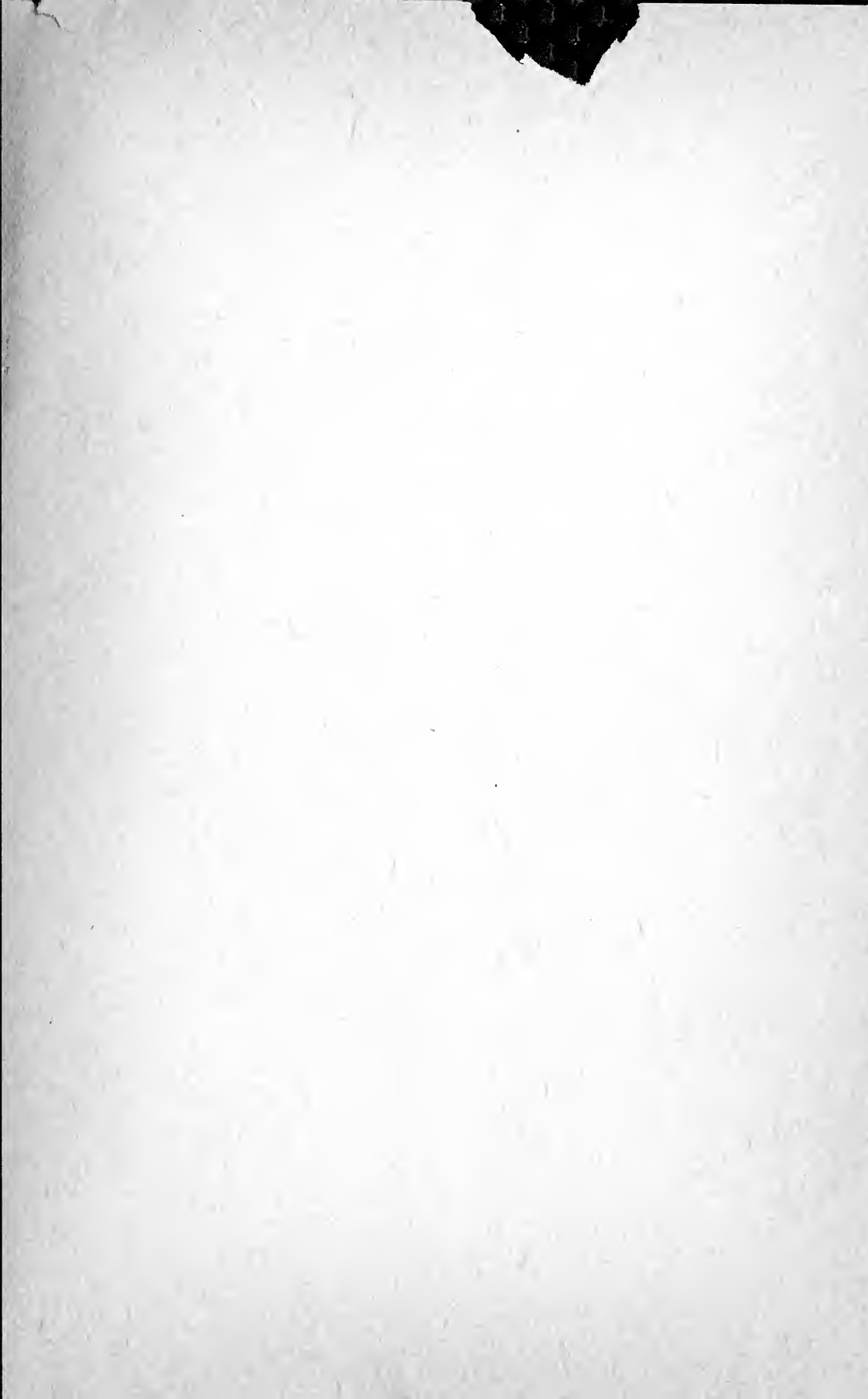
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September 1 — Clerk must report to County Auditor not later than.

September 1 — Treasurer must report to County Auditor not later than.

September, First Monday — Labor Day. (Legal Holiday.)

September, First Saturday — Teachers' Examination.

September 20 — Auditor's abstracts Nos. 1, 2, 3, 4, and 5 must be filed with State Commissioner of Common Schools not later than.

September 20 — Auditor must report condition of Institute Fund not later than.

October, First Saturday — Teachers' Examination.

November, First Saturday — Teachers' Examination.

November, First Tuesday after First Monday in odd numbered years — Election of members of Board of Education.

November, Thanksgiving Day — Day appointed by President and Governor. (Legal Holiday.)

December, First Saturday — Teachers' Examination.

December 25 — Christmas Day. (Legal Holiday.)

January 1 — New Year's Day. (Legal Holiday.)

January, First Saturday — Teachers' Examination.

February, First Saturday — Teachers' Examination.

February 22 — Washington Day. (Legal Holiday.)

March, First Saturday — Teachers' Examination.

April, First Saturday — Teachers' Examination.

April, Second Monday — Election of director in township sub-districts.

April, Third Saturday — Pupils' Examination.

April, Arbor Day — Date fixed by Governor each year.

May, First Saturday — Teachers' Examination.

May, Third Saturday — Pupils' Examination.

May, Two Weeks ending Fourth Saturday of — Enumeration of Youth of School Age.

May 30 — Memorial Day. (Legal Holiday.)

June, First Saturday — Teachers' Examination.

June, First Saturday — Clerk should make enumeration return to County Auditor.

July, First Saturday — Teachers' Examination.

July 4 — Independence Day. (Legal Holiday.)

July, Third Saturday — Auditor make Enumeration Return to the State Commissioner of Common Schools.

August, First Saturday — Teachers' Examination.

August 31 — Clerk of Board of School Examiners must report to Commissioner.

August 31 — All Clerks and Superintendents who are required by law to report to County Auditor and State Commissioner of Common Schools must do so not later than.

August 31 — School Year Ends.